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ABSTRACT

This is a collection of lesson plans on civic education designed for all levels of gifted students and written by teachers from across the U.S. The 25 teachers submitting lessons to the compilation are a part of the LEGACY (Linking Educators and the Gifted with Attorneys for Civics: Yes!) project. The lessons involve students in the study of the origins and evolution of the U.S. system of government, how and why the legal system operates as it does, and the roles of politicians, lawyers, judges, and citizens in ensuring effective and responsible government. Topics range from specific constitutional issues such as search and seizure, equal protection, and due process to more general lessons on human rights, comparative law, and literature and the law. Lessons generally include a brief overview, objectives, materials needed, instructional activities, and suggestions for evaluation. The document also contains brief descriptions of national law-related education (LRE) programs that can serve as points of reference for those interested in LRE programs. (TSV)

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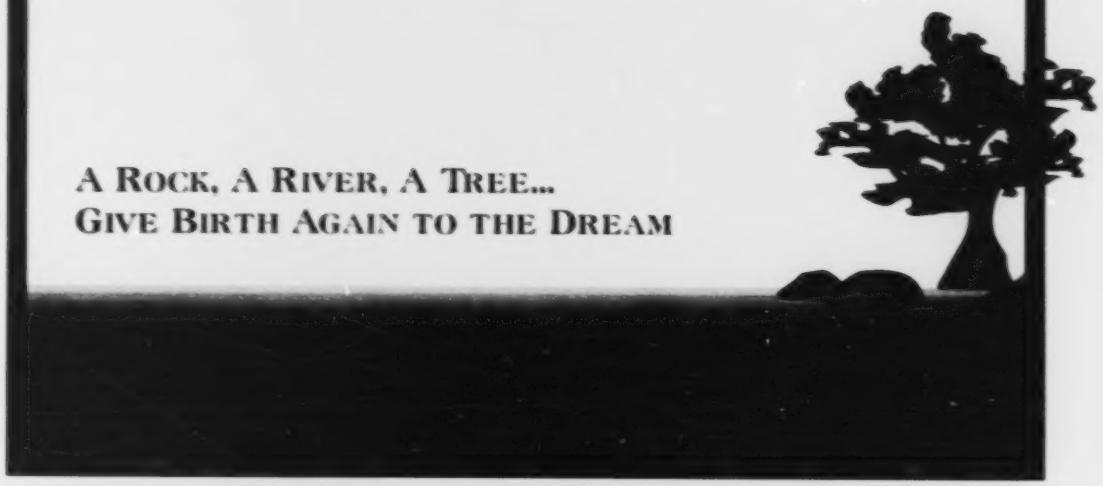

CHALLENGING LESSONS IN CIVICS AND CITIZENSHIP

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LEGACY

Challenging Lessons in Civics and Citizenship

Linking
Educators and the
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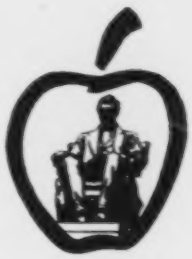
Attorneys for
Civics --
Yes!



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Lessons written by LEGACY classroom teachers
in cooperation with their attorney-partners

Edited by Julia P. Hardin
Page Layout and Initial Editing by Ellen McIntosh
Proofreading and other assistance provided by
Gloria Fuller, Samantha Smiley, Becky Brookshire, Rodney Mitchell, and Dianna Habib

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Challenging Lessons in Civics and Citizenship

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The opinions, conclusions, and recommendations expressed in this publication belong to the authors and do not necessarily reflect the views of the United States Department of Education nor that of Wake Forest University.

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LEGACY:

Linking Educators and the Gifted with Attorneys for Civics: Yes!

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LEGACY:

Linking Educators and the Gifted with Attorneys for Civics: Yes!

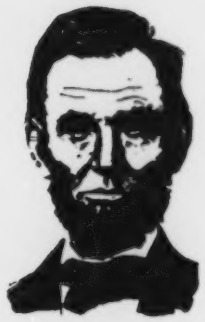
The need for improved teacher training and curriculum materials to help teachers provide effective civics education for gifted and talented students is grounded in two basic facts: (1) No matter what careers our gifted and talented students choose, they will *all* be citizens; and (2) Civics education features a variety of teaching and learning strategies that challenge these students to reach their potential.

The study of the United States Constitution, case law, and legislative process fascinates gifted and talented students. They are delighted to learn that they do not have to be lawyers to understand the meaning of significant Supreme Court decisions. Students learn about the origins and evolution of our system of government, how and why our legal system operates as it does, the roles of politicians, lawyers, judges, and, most importantly, the role of the citizen in ensuring effective and responsible government.

Civics and law-related education, when properly implemented, develops students' critical thinking and analytical skills, their ability to make decisions when faced with ethical dilemmas, their oral and written communication skills, and their abilities to perform in-depth research, to successfully advocate their position on a given issue, and to visually display and analyze data using graphs and charts. Civics education teachers are among the most innovative classroom teachers largely due to the variety of teaching

techniques they employ, such as role-playing and simulations, debates, mock trials, field trips, cooperative learning, structured and/or open discussion, visual connections, and resource persons.

The unique need met by LEGACY is the ongoing support for the full academic year in the form of an experienced teacher-mentor and a volunteer attorney partner.



"We must ask where we are and whither we are tending."

Objective #1: To train 50 teachers each year

The LEGACY Institutes have been held each summer for three years at Wake Forest University in Winston-Salem, North Carolina. Based on specific selection and participation criteria, teachers were nominated by state educational agencies, gifted and talented programs, and state civics and law-related education programs.

During the LEGACY institute, teachers received specialized instruction in the effective combination of civics education and the gifted and talented learner. Research in both fields aid in the identification of the areas of improvement needed for each teacher. The tables in the appendix illustrate sample differentiating characteristics of the gifted and talented learner and suggested classroom strategies that correspond directly to common civics education strategies.

Objective #2: To support these 50 teachers

The Phi Alpha Delta Legal Fraternity, based in Washington, D.C., identified lawyers in these teachers' communities who were willing to commit to a partnership with their teacher and his or her students for the academic year following the institute. These attorneys volunteer their time to help the

teacher and his or her students in the classroom and to help develop the curricula.

The teacher-lawyer partners work together throughout the academic year, developing and testing effective lesson plans specifically designed for gifted and talented students.

Objective #3: To disseminate the new curricula

The distribution phase of LEGACY involves: (1) demonstration presentations of the newly-developed curricula by LEGACY teachers at local, state, and regional teacher conferences and in-service programs; (2) editing, publishing, and distributing these new approaches and techniques; and (3) adding these new curriculum materials to the Warren E. Burger National Repository for Educational Materials on Citizenship and the Constitution and distributing them to other teachers in a variety of formats, i.e., on paper, on computer disk, and via the CRADLE electronic bulletin board.

With the support of state and local education agencies and school district administrators, the LEGACY teachers provided extensive teacher training in these new curricula during the academic year following their institute. As a part of these teachers' commitment to the project, they pledged to train at least 25 other teachers in the use of the new curricula.

The special efforts of the participants in LEGACY will leave a legacy of innovative curriculum approaches and techniques for the benefit of several generations of gifted and talented students.

-- Julia Hardin, Project Director

The Tigers Are Innocent!

Kathy A. Dietrich
Newman Elementary
Billings, Montana

INTRODUCTION

This unit of study encourages students to critically examine the rights and responsibilities of various parties when building a zoo. Through the use of outside resource people, research, and writing, students will formulate their own opinions and decisions of how a zoo should best be constructed and maintained.

OBJECTIVES

- To provide students with the opportunity to interact with various community organizations.
- To help students become better critical thinkers.
- To distinguish between the rights and responsibilities of various groups, i.e., zoo owners, zoo animals, cage and exhibit designers, and the general public.
- To identify important characteristics and design aspects which must be considered when building a zoo.
- To understand the term "liability" and apply its meaning as needed.
- To keep and write daily, in a journal or log, activities/events that coincide with this unit.

AUDIENCE

Grades 5-8; upper elementary and middle school students. Selected group activities become individual projects for advanced students.

TIME REQUIRED

One to two weeks, depending upon selection of activities

MATERIALS NEEDED

1. Various research books on endangered species and threatened animals
2. Addresses for larger zoos throughout the nation (included)
3. Large chart paper
4. *Faithful Elephants* by Yukio Tsuchiya (for optional extended activity)

PROCEDURE

1. Instruct students to keep a daily log of activities and discussions.

2. Give the students a brief, pretend scenario:

A community has been planning and looking forward to operating its own zoo for a long time. The zoo that is finally being constructed has planned for a variety of animals, many of which are endangered or threatened. A strong group of animal rights activists plan to take action. Two Siberian Tigers (or whatever you choose) arrive to be housed in the first completed exhibit. The zoo is broken into one night, and the tigers are about to be taken by a pair of the animal rights activists with the purpose of freeing them in their own natural habitat.

3. Divide students into four groups:

   a. Rights of the tigers
   b. Rights of the activists
   c. Rights of the owner of the zoo that has acquired the tigers
   d. Rights of the people who would come to see the endangered animals

Have students brainstorm the rights of these groups and write them on large chart paper. This is an excellent time to use a community resource person during share time. (Perhaps someone from the local humane society.)

4. Have students write for information from various large zoos throughout the country asking for specific ideas and suggestions on zoo design. Request zoos to send pictures of their exhibits and/or plans for construction when possible. (See the attached list)

5. Invite another community resource person to discuss considerations when designing a zoo. (Perhaps the owner or director of a local zoo.) Prior to the guest's arrival, use large chart paper

to record the class's ideas on zoo design. Have your expert add onto and discuss student feelings and ideas. If possible, visit, tour, and complete this activity at the zoo site.

6. Our scenario continues:

> **One of the animal rights activists, while trying to free the tigers, becomes injured by the tigers due to a faulty cage design. Although the activists intended to steal the animals, the animals escape that night on their own because of the poor cage design. The animal rights activist sues the zoo owner for negligence.**

Use a community resource person, a lawyer, to discuss the terms "liability" and "negligence," and to apply it to this scenario. Review and discuss the three cases provided: *Jones v. Beame* (1976), *Grover v. City of Manhattan* (1967), and *Franken v. City of Sioux Center* (1978). Reorganize the class into six small groups, one for each side (plaintiff and defense) regarding the potential liability of (1) the animal rights activists, (2) the zoo owners, and (3) the cage designers. Have your community resource person lead the follow-up discussion using the group's input. Emphasize and de-emphasize ideas in relation to their pertinence.

An outline of the elements of negligence and liability issues, as well as possible defenses, is included with this lesson for use by the teacher and/or resource person in explaining the "liability" aspects of this scenario to the students.

7. The final activity will be to have the students design their own zoos using information that they have accessed through the discussions, letter writing, research, etc. The students then present their zoo design to the class as a final project. They must be able to apply their new knowledge in the zoo design they formulate. Perhaps groups of three to five students would be appropriate since this is a large project and will require considerable brain power.

EXTENSION ACTIVITIES

- Assign students to go to the public library to access microfiche and newspapers still available that covered the construction of a zoo in your area. Do short reports on how the zoo progressed, perhaps time-lines.
- Students can read the short story *Faithful Elephants* by Yukio Tsuchiya -- a true story about elephants in a Japanese zoo.
- Students can research endangered and threatened animals that may be seen in zoos throughout our nation.
- A further step in the scenario: A local judge decides that the tigers must be destroyed when they injure the activist and escape. The judge's concern is public safety. Discuss class concerns, emotions. What would the students do?

EVALUATION

There are several means by which the teacher can monitor progress and evaluate students authentically: (1) observation of students in whole group and small group discussions; (2) individual participation; (3) an established rubric; (4) grading written research papers; (5) daily journal evaluation; etc. The most important means of authentically evaluating students will be through their zoo designs and presentations to the class.

DEBRIEFING/CLOSURE

1. Are the rights of any one group more important than others?
2. What are some examples of liability?
3. Classify zoos according to information obtained. Use a sliding scale of 1-5, 1 being the most humane and conscious of animal rights and public safety to 5 being the least conscious, perhaps cruel and unsafe. How did you arrive at your ratings?
4. What are some considerations you should analyze when designing and constructing a zoo? Can you prioritize these considerations?
5. Should there be regulations on what kinds of cage exhibits must be provided for various animals?

TIPS FOR THE TEACHER

Through integration, students can be working on this project during many different subject areas. Unit length will vary according to how many extension activities your class conducts.

BIBLIOGRAPHY

- Tsuchiya, Yukio. *Faithful Elephants.* New York: Houghton Mifflin, 1988 and The Trumpet Club, 1990.
- Kirchsofer, Rosi. *The World of Zoos.* Viking Press, 1968.
- Hahn, Emily. *Animal Gardens.* Doubleday, 1967.

SOME ZOOLOGICAL ADDRESSES

Zoo Montana
c/o Jim Duncan
2100 South Shiloh Road
Billings MT 59106

Alaska Zoo
4731 O'Malley Road
Anchorage AK 99516

The Phoenix Zoo
P.O. Box 5155
Phoenix AZ 85010

Minnesota Zoological Garden
12101 Johnny Cake Ridge Road
Apple Valley MN 55124

Cincinnati Zoo and Botanical Garden
3400 Vine Street
Cincinnati OH 45220

Cleveland Metroparks Zoological Park
3900 Brookside Park Drive
Cleveland OH 44109

New York Zoological Park
185th St. & Southern Blvd.
Bronx NY 10460

Chicago Zoological Park
Brookfield Zoo
3300 Golf Road
Brookfield IL 60513

Marine World/Africa USA
Marine World Parkway
Redwood City CA 94065

Atlanta Zoological Park
800 Cherokee Ave SE
Atlanta GA 30315

Baltimore Zoo
Druid Hill Park
Baltimore MD 21217

Detroit Zoological Park and
Belle Isle Aquarium
8450 West 10 Mile Road
P.O. Box 39
Royal Oak MI 48068

St. Louis Zoological Park
Forest Park
St. Louis MO 63139

Philadelphia Zoological Gardens
34th Street and Girard Avenue
Philadelphia PA 19104

Overton Park Zoo and Aquarium
Memphis TN 38112

Dallas Zoo in Marsalis Park
621 East Clarendon Drive
Dallas TX 75203

San Antonio Zoological Garden and Aquarium
3903 North St. Mary's
San Antonio TX 78212

Milwaukee County Zoological Park
10001 West Bluemound Road
Milwaukee WI 53226

JONES v. BEAME

382 N.Y.S.2d 1004
Supreme Court of New York
April 12, 1976

FACTS
The plaintiffs were individual citizens who sought to close three zoos and to transfer the animals to the New York Zoological Park (the Bronx Zoo) due to the conditions in the city zoos. The defendants were the City of New York, as well as veterinarians who contracted with the City to take care of the animals' medical needs. The complaint sought a declaration that conditions in the city zoos constitute cruelty to animals in violation of the law.

The complaint stated that the animals are almost completely deprived of any meaningful or effective veterinary care and that serious diseases and injuries are frequently permitted to go undiagnosed or untreated for long periods of time, or are misdiagnosed and treated improperly. The plaintiffs also contended that the animals are kept in habitats that are not proper for them and in fact are detrimental to their physical and mental health. They also alleged that the animals are not properly protected from the brutality that can be expected from members of the general public -- small and defenseless animals have been attacked in their cages, and other animals have been hurt or killed by attempts to rescue tormentors upon whom they have turned. In addition, numerous animals have been stolen from the zoos and their caretakers are wholly untrained in animal care. An example is a Patas monkey that exhibits symptoms of classic cage neurosis by jumping to and fro from front feet to hind feet while remaining on the same spot for minutes on end. The exercise amuses the public, but the keepers are ignorant of the distress that gives rise to the neurosis. Nocturnal animals are forced to be in daylight, without even a simple box in which to seek refuge. Elephants are housed in a pen measuring two by one-and-one-half lengths. It appeared that water had not been changed in several months, and the food preparation area was also dirty.

The Agriculture and Markets Law makes it a misdemeanor to engage in cruelty to animals, to neglect to provide confined animals with proper aid, food, shelter, and water, or to fail to exercise due care in safeguarding the public from attack by a wild animal. The enforcement of this law is left to public officials; there is no specific provision that would permit a citizen to file a civil lawsuit for violation of this law.

ISSUE
Do these citizens have standing to sue the city for violation of the Agriculture and Markets Law by virtue of blatant cruelty to animals, and does the maintenance of zoos in violation of this law constitute a proper cause of action for the waste of public funds?

DECISION
Yes to both questions. Denial of standing to these plaintiffs would make it impossible for the courts to scrutinize the lawfulness of the city's maintenance of its zoos. The alternative, such as relying on a city employee to lodge criminal charges against the Mayor of New York, is unlikely. In addition, the use of public property for illegal purposes (in violation of the Agriculture and Markets Law) states a proper action for the waste of public funds.

GROVER v. CITY OF MANHATTAN

424 P.2d 256
Supreme Court of Kansas
March 4, 1967

FACTS
Jimmy Lee Grover, aged ten, was injured while visiting the Sunset Zoo in September of 1962. He was attacked and bitten by a coyote which had escaped from its enclosure at the zoo and was running loose in the area frequented by visitors. On Jimmy's behalf, his parents sued the city for negligence in allowing the animal to run loose. The lower court ruled that the city was immune from liability because the operation and maintenance of the zoo is a governmental function and "the coyote" running loose did not constitute a nuisance.

ISSUE
Is a city liable in damages for its negligent operation of a zoo?

DECISION
No. Generally, city governments and officials are not liable for negligence in the performance of governmental functions, i.e., activities engaged in for the benefit of the general public and in performance of a duty imposed on the city. In an earlier case, Hibbard v. City of Wichita, 159 P. 399, the court held that the maintenance of a zoo is a governmental function, and thus cities are not liable in damages for injuries inflicted on visitors by animals through the negligence of the city's officers or agents. In order for a function to be considered proprietary (and therefore subject the city to potential liability), there must be shown some special local benefit that the city and its inhabitants receive rather than the public at large. Zoos are maintained for the same reason as parks -- for the pleasure and education of the entire public. Therefore, the city cannot be held liable for damages in its maintenance and operation of the zoo.

With regard to the issue of the city's liability for maintenance of a nuisance, this was an isolated instance of a temporary nature. The coyote was not outside its pen other than on the occasion when the boy was injured, so it is not a nuisance case.

NOTE
There are cases in which the maintenance and operation of a zoo have been considered proprietary or "corporate" functions for which the city may be held liable. *See* Hyde v. City of Utica, 20 N.Y.S.2d 335 (New York); City of Mangum v. Brownlee, 75 P.2d 174 (Oklahoma); and City of Fort Worth v. Wiggins, 5 S.W.2d 761 (Texas). Courts in California and Kansas have held that this is a governmental function. *See* McKinney v. City and County of San Francisco, 241 P.2d 1060 (California); Hibbard v. City of Wichita, 159 P. 399 (Kansas).

FRANKEN v. CITY OF SIOUX CENTER

272 N.W.2d 422
Supreme Court of Iowa
December 20, 1978

FACTS
The plaintiff, Arnold Franken, was injured when he placed his hand inside a cage to pet a 300-pound Bengal tiger named "Stubby." The tiger was being held in temporary quarters, a steel cage in a warehouse, until permanent quarters could be prepared for him at a Minnesota zoo. Despite being raised with affection training and having a history of tame behavior, Stubby was housed for a prolonged period of time in a small cage, and this confinement apparently caused him to become hyperactive and aggravated. There was evidence that the plaintiff has been warned not to put his hand in the cage, but he did so, and the tiger grabbed it with his jaws, causing serious lacerations. The trial jury found that the defendant was not liable for damages.

ISSUE
Was the jury properly instructed on the assumption of risk defense?

DECISION
No; the jury was not properly instructed on the application of the assumption of risk defense and its dependence on the plaintiff's actual knowledge of the risk. A possessor of a wild animal is subject to strict liability to another for harm done by the animal to the other, even though the possessor has exercised the utmost care to confine the animal or to otherwise prevent it from doing harm. (Restatement Second of Torts Section 507(1)) Assumption of risk is a defense to a claim of strict liability. Assumption of risk is where someone is barred from recovering damages if he or she unreasonably subjected him or herself to the risk of harm by the animal. The defendant must show that the plaintiff had actual knowledge and full appreciation of the risk of harm from the tiger at the time he received his injuries. The court held that the jury should have been instructed fully about the assumption of risk defense, specifically with regard to the plaintiff's actual knowledge of the risk involved, and that they could have confused this standard with the objective standard of ordinary care. The case was reversed and remanded for a new trial.

OUTLINE ON CIVIL LIABILITY

NEGLIGENCE:

Elements:
(1) Existence of a duty on the part of the defendant to conform to a specific standard of conduct (standard of care) for the protection of the plaintiff
(2) Breach of that duty
(3) Breach is the proximate cause of the resulting injury or damage
(4) Actual injury or damage

The standard of care is that of a reasonable person; the defendant's conduct is measured against what an average (reasonable) person would do under the same circumstances. Exceptions: Children are held to a standard of a child of similar age, education, intelligence, and experience. Professionals are held to a higher degree of care appropriate to someone with the knowledge and skill of a member of that profession in good standing. (Note: physical characteristics of defendant may affect standard of care expected.)

Proximate cause: the act must be the cause of the injury, i.e., the injury would not have occurred but for the defendant's breach of his/her duty, or the breach was a substantial cause of the injury, or there was an uninterrupted chain of events from the negligent act to the plaintiff's injury.

DEFENSES TO NEGLIGENCE:

Contributory negligence (not a defense to strict liability -- see below)
Plaintiff contributed to his/her own injury, thus barring him/her from recovering unless the plaintiff's negligence was less serious or no more serious than that of defendant. (Most states now allow some form of this, referred to as "comparative negligence.") However, the person who has the "last clear chance" to avoid an accident and fails to do so is still liable for negligence.

Assumption of risk
Plaintiff is not allowed to recover damages if the plaintiff assumed the risk of damage caused by the defendant's act. Plaintiff must have knowledge of the risk and must have proceeded voluntarily in face of the risk.

STRICT LIABILITY:

Extra elements beyond normal "negligence":
Existence of an *absolute* duty on the part of the defendant to ensure safety.

Liability for Animals:
The owner is ***strictly liable*** for injuries caused by dangerous animals so long as the injured person did nothing to bring about the injury.

The Search Warrant Simulation

Julie Tunnell
Griffith Thomas Elementary School
Dublin, Ohio

INTRODUCTION

This lesson relates to the Fourth Amendment search and seizure law. In preparing fourth and fifth grade students for a mock trial which includes a search warrant, a police report, and various types of evidence, I use these lessons to allow students to examine the issues involved in the search and seizure of a home, car, or school. Students will role-play the actual search and seizure of a school classroom, prepare and obtain an actual search warrant, and consider direct and circumstantial evidence to find out who stole a calculator.

AUDIENCE

Grades four and five, gifted & talented students, in preparation for a mock trial or an upper elementary social studies class.

TIME TO COMPLETE

This lesson will take 5-8 class sessions.

GOALS

As a result of this lesson, students will:

- Explain the rationale for the Fourth Amendment.
- List situations in which a search warrant is not legally required.
- Analyze scenarios related to search and seizure to decide if the search was conducted legally.
- Demonstrate the use of a search warrant in an actual classroom search.
- Prepare and exhibit a search warrant to obtain an item of evidence in a mock trial.

MATERIALS

1. The Fourth Amendment
2. You Be the Judge: Search Warrant Cases
3. Exceptions to Search Warrant Requirements
4. Cases Related to Search Warrant Exceptions
5. Direct v. Circumstantial Evidence
6. Warrant to Search

DAY ONE

Introduce the Fourth Amendment by reading it to the class (Handout 1). Have the students answer the following questions:

- What is the difference between "search" and "seizure"?
- What are the requirements for a search warrant?
- What is the meaning of probable cause?

Have the students write questions they would like to ask a police officer about using or obtaining a search warrant. Students then apply their knowledge by making decisions regarding the cases listed in Handout 2.

DAY TWO

Invite a police officer to visit the class, perhaps a D.A.R.E. officer. The police officer should bring in an actual search warrant form and explain how the form must be completed. Ask the officer to explain the exceptions to the search warrant and/or probable cause requirements (Handout 3). It is interesting for students to hear a few "real" stories about search warrants that the police officer has encountered.

DAY THREE

Review what students learned from the police officer. Ask them to name the exceptions to the search and seizure requirements. Give students several case scenarios (Handout 4A) so they can play the role of judge to determine if the police conducted a legal search. Then ask them to construct a scenario of their own based on one of the exceptions to the search warrant rules (Handout 4B).

DAY FOUR

Simulate an actual search and seizure case by asking a student from another classroom to take one of your student's calculators and hide it somewhere in the classroom. Try to leave

some clues like a ransom note for the calculator, or let another student see the incident, but just not report it. When the students arrive in class, tell them that you've heard that a calculator was stolen, and explain the difference between direct and circumstantial evidence (Handout 5). List all the evidence available related to this crime under two columns "Direct Evidence" and "Circumstantial Evidence." If probable cause is found ask students to complete an actual search warrant (See Handout 6) and obtain permission from the school principal (or designee) to search another classroom. If the students find the missing calculator, you can talk about the advantages of a search warrant, but if they are unable to find it, you can talk about the frustrations of police officers and disadvantages to strict laws about search and seizure.

DAY FIVE

Students are now prepared to complete a search warrant form to obtain evidence in the mock trial. Ask them to use actual evidence tags for the items they recover by using the search warrant, which can also be obtained from police officers.

EXTENSIONS WITH LITERATURE

Have students read *There's a Boy in the Girls' Bathroom* by Louis Sachar. In the book the parents are accused of stealing an elephant. The garage where the elephant is supposedly kept is never officially searched, and no elephant is ever found, but the evidence for an actual search can be listed and teachers can ask the students if a search would be legal in this case. A mock trial could be written and conducted based on the characters.

EVALUATION

Student understanding will be checked by verbal comparisons through their discussions of the various cases related to the Fourth Amendment, exceptions to the search and seizure restrictions, and in the simulation and use of an actual search warrant. The cases (Handouts 2 and 4A) can be used as a quiz about whether students understand the law or not. Also, the student-created scenarios (Handout 4B) will be scored based on whether the student can clearly state an exception to the rule situation. Student lawyers will demonstrate the correct use of a search warrant to obtain evidence in an actual mock trial.

TIPS FROM THE TEACHER

The actual simulation of a stolen item is great fun for the students. Be sure to inform the classroom teacher, the principal, and the students' parents in case the theft is taken seriously. The students enjoy playing detective and learn the most during the simulation that is "real for them." Try to make the crime as real as possible, and carry it out as far as it can logically go. If you want to leave fingerprints on the desk and try to uncover them, or leave prints on a coke can in a trash can -- this adds to the fun of uncovering who stole the calculator. One year, around Christmas time, the ransom note demanded 25 candy canes.

The students were delighted when they found candy cane wrappers in the trash can in another teacher's classroom. The distinction between direct and circumstantial evidence is quite difficult to understand. I recommend having a lawyer or judge present during the lesson using Handout 5. Private detectives can also be useful resource speakers in this lesson.

BIBLIOGRAPHY

- *American Law Source Book for the Classroom Teacher*, Young Lawyers Division of the American Bar Association, 1989.
- *Cases: A Resource Guide for Teaching About the Law*. R. Murray Thomas, Scott, Foresman and Company, 1982.
- *The Drug Question: The Constitution and Public Policy*. The Constitutional Rights Foundation, 1990. Suite 1700, 407 S. Dearborn, Chicago, IL 60605.
- *Indiana v. Jamie L. Curtis*, Robert Leming, a Scripted Trial based on *New Jersey v. T.L.O.* (469 U.S. 325, 1985).
- *Search and Seizure-Our Right to be Secure*, Law Studies, Vol. XVI, No. 3, Fall 1991.
- *There's a Boy in the Girls' Bathroom*, Louis Sachar, Knopf, New York, 1987.

Teacher Discussion Guide

The Case of the Missing Dog: Yes, the officer did break the search and seizure law. He did not have enough evidence or probable cause to search the house without a warrant. Simply seeing a boy in the front yard with a dog leash does not mean that a dog had been stolen from the woman's house.

The Case of the Stolen Camera: No, the police cannot legally arrest the two boys and seize the box of cameras as evidence. If the police took the teenagers to court, the judge would let them go because the officers did not have a search warrant to look for cameras, only for foodstuffs and items stolen from the school. If the officers had left the house and obtained a search warrant for the box of cameras, then they could legally arrest whoever had the box in his/her bedroom. In this case the arrest would probably be for possession of stolen goods, not for burglary, because the police still didn't have evidence showing who had taken the box of cameras from the drugstore.

* The cases have been adapted from: *Cases: A Resource Guide for Teaching About the Law* published by Scott, Foresman and Company, 1982 and reprinted with permission.

HANDOUT 1

THE FOURTH AMENDMENT

THE RIGHT OF THE PEOPLE TO BE SECURE IN THEIR PERSONS, HOUSES, PAPERS AND EFFECTS, AGAINST UNREASONABLE SEARCHES AND SEIZURES SHALL NOT BE VIOLATED, AND NO WARRANTS SHALL ISSUE, BUT UPON PROBABLE CAUSE, SUPPORTED BY OATH OR AFFIRMATION, AND PARTICULARLY DESCRIBING THE PLACE TO BE SEARCHED, AND THE PERSONS OR THINGS TO BE SEIZED.

Questions to consider:

1. What is the difference between search and seizure?

2. What is the purpose for issuing a search warrant?

3. What is the meaning of probable cause?

4. What would happen if there were no Fourth Amendment?

5. What are some questions you have about using search warrants that you'd like to ask a police officer?

HANDOUT 2

YOU BE THE JUDGE: SEARCH WARRANT CASES

THE CASE OF THE MISSING DOG:

A police patrol car was stopped by a woman who waved her hand at the officer who was driving through the neighborhood. She said, "Somebody stole my dog while I was at the store this morning. And I know who it is. It's those Gill people who live in that old house at the end of the street. You see that boy out there playing in the yard? He's got a dog leash in his hand. They're a bad bunch of people and they stole my dog. You go down there and find the dog right away."

The officer said, "We'd have to get a search warrant first."

The woman said, "But it'll be too late then, this is an emergency."

The officer said, "Well I guess you're right, I'll see what I can do."

So the officer went to the Gill house and rang the door bell. A woman came to the door and asked what he wanted. He told her a neighbor's dog was missing, and he would like to come in to check to see that it wasn't in the Gill house. The woman said he couldn't come in. So the officer told her to step aside, or she'd be in trouble with the police. And he walked into the front room.

Just then two teenage boys came into the room, and their mother told them, "Get that cop out of here."

Question: Did the police officer break the search and seizure law?

HANDOUT 3

EXCEPTIONS TO SEARCH WARRANT REQUIREMENTS

S- STOP 'N FRISK

E- EMERGENCIES

A- ARRESTS, ABANDONED PROPERTY OR AIRLINE SEARCHES

R- RIGHT IN PLAIN VIEW

C- CARS, CONSENT

H- HOT PURSUIT

I- IN LOCO PARENTIS
(In place of parent -- assuming and discharging parental duties)

N- NOW IF YOU GIVE CONSENT

* The above has been adapted from *The Drug Question: The Constitution and Public Policy*, published by The Constitutional Rights Foundation in 1990 and reprinted with permission.

YOU BE THE JUDGE: SEARCH WARRANT CASES

THE STOLEN CAMERA:

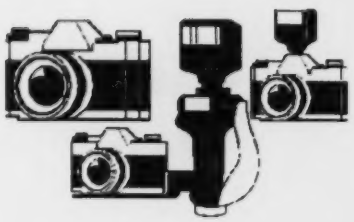
Jefferson High School was broken into in the middle of the night, and somebody stole foodstuffs from the cafeteria, tape recorders, and various audio-visual equipment. The police later found tire tracks in the snow that led to the house of Summer Free, a High School student. She had been caught six months earlier for stealing cameras from a drug store but never convicted because of lack of evidence. Her fifteen-year-old brother was allegedly with her at the time of the crime.

Since the police had followed the tire tracks and had a previous suspicion about Summer for stealing cameras, they went to the court judge to ask for a search warrant. The judge thought the police had probable cause -- that is, a good reason for searching the house, so she gave them the search warrant.

When the two police officers went to Summer's house, they showed the search warrant to the girl's father, and he let them into the house to search for stolen items from the school. But while they were looking around in the bedroom they found a box of brand new cameras, with the drugstore label on the outside.

The officer said to his partner, "We can arrest her right now because we've got the stolen cameras right here." So the police officers arrested Summer and her brother for stealing the cameras from the local drugstore.

Question: Can the police arrest the two teenagers and seize the cameras as proof they were burglars? That is, did the police break the search and seizure laws?



HANDOUT 4A

CASES RELATED TO SEARCH WARRANT EXCEPTIONS

THE GROCERY GAG
The police officer for Big Bear saw a man running out of the store with a gun in hand. She stopped the man and began to frisk him for items stolen from the store. The man refused to give consent and insisted that a person inside the store had tried to shoot him and he had grabbed the gun and come outside to look for an officer. Inside the man's pocket was a stolen watch. Can the police officer arrest him? What exception applies here?

THE SUSPICIOUS OLD LADY
Going through the airport security, you notice an old lady who is carrying a rather large purse. She claims that she cannot go through the metal detector because she has a pacemaker. Does the airport authority have the right to search through her purse? What exception applies here?

THE OPEN LOCKER
The principal has been alerted that students have been carrying drugs to school. As he is walking down the hall from his office to the Social Studies classroom to observe a teacher he sees an open locker with a clear sack of drugs in the top. Can the principal look in the locker without a search warrant? What exception applies?

THE SPEEDING TICKET
Your friend is pulled over by the police for breaking the speed limit. The police officer asks him to open the trunk of his car. Your friend refuses, because there is no reason. Can the officer search his trunk? What exception applies?

HANDOUT 4B

CREATE A CRIME

Now it is your turn to brainstorm an exception to the search warrant rule. Try to come up with an emergency situation or a hot pursuit where the officer would or would not need a search warrant.

ACTUAL CODE

Emergency Situations: Sometimes police do not have time to get a warrant because of some emergency situation such as a bomb scare, a person's life in danger, or some other urgent situation.

Hot Pursuit: If police are in hot pursuit of a suspect they do not have to get a search warrant to enter a building they have seen the suspect enter. They can also seize evidence they find while in hot pursuit of a felon.

BRAINSTORMED SITUATION

PERSONS:

PLACES:

CRIME:

Now, write your situation below. Be sure to give it a title, ask us a question about the legality to search, and provide us with your answer.

TITLE:

SCENARIO:

QUESTIONS:

JUDGE'S DECISION:

HANDOUT 5

DIRECT versus CIRCUMSTANTIAL EVIDENCE

DIRECT EVIDENCE (Facts about the case)

Testimony
Statements by a witness when somebody sees something with their own eyes.

Example: "I saw that man steal the calculator."

Physical Objects
Any items having to do with the case.

Example: Search warrants, photographs, or weapons

CIRCUMSTANTIAL EVIDENCE (Indirect facts about the circumstances involved in a case from which you can draw inferences about how the event might have happened)

Testimony
Indirect statements where somebody sees something with their own eyes but not the actual crime.

Example: "I saw someone running down the street a block away from the store."

Physical Objects
Items not directly related to the crime.

Example: "I found this ring laying on the street."

HANDOUT 6

WARRANT TO _____
THE STATE OF _____ COUNTY OF _____ CITY OF _____
To the Chief of Police of the City of _____, _____. Greetings:
WHEREAS, there has been filed with an affidavit, a copy of which appears on the reverse side, these are, therefore, to command you in the name of the State of _____, with the necessary and proper assistance, to enter, in the daytime (in the nighttime) into premises known as:
...and to execute a search of the said premises within 3 days after the issuance of this warrant. The said premises being in the City of _____, _____ aforesaid, and there diligently search for (the said goods, chattels, or articles), to-wit:
...and that you bring the same or any part thereof, found on such a search, forthwith before me, or some other judge of this court having cognizance thereof, to be disposed of and dealt with according to law.

Judge, _____County Municipal Court, _____ (city), _____(state)	Date issued: _____

"He Said/She Said:" A Search for the Truth

Lynda K. Dunnigan
Williamsburg-James City-County Schools
Williamsburg, Virginia

INTRODUCTION
Middle school students often find themselves in situations where peer pressure and group identity influences their decisions more than the truth. Circumstantial evidence, personal prejudices, and hearsay become the basis for judgement rather than the actual analysis of the facts. These situations can be related to the process of gathering and presenting evidence in the legal system, and the impact of bias and prejudice in distinguishing between the facts (i.e., truth) of an issue and opinions regarding the issue.

OBJECTIVES
Students will:
- learn to differentiate between facts and opinions.
- learn to analyze information.
- practice note taking.
- practice debriefing.
- examine issues of personal prejudice and bias.
- apply their knowledge of rules and their enforcement to the legal system.
- learn how to brief a case.

GRADE/SUBJECTS
Middle School/Civics

TIME FRAME
5 class periods (50 min. each)

MATERIALS
STUDENT HANDOUTS
1. Fact Sheet
2. Scenario
3. Case Study Sheet

PROCEDURE

DAY 1

Learning Activities:
Active Listening and Note Taking

Strategy:
DEBRIEFING
Students are asked, "How many of you have become involved in a dispute with your friends as a result of something you have been told, not something you saw or heard?" (Allow five minutes for discussion and responses.)

Next say: "In a court of law, before a judge or jury rules on a case, evidence (factual information used to determine the truth of an allegation) is presented in relation to the alleged violation of a specific law. The jury must weigh the evidence in a similar manner. Personal feelings must not enter into a decision, rather, the jury is instructed by the judge to weigh the evidence in light of a specific law."

Ask, "How many of you are objective and carefully weigh all of the facts, leaving out your personal feelings before taking a side in a dispute among your friends? Today, we are going to simulate a situation to show the difficulty in determining the truth."

Ask/select two student volunteers (Students 2 and 3) to leave the room. Tell them that in turn, they will be given information and told to what to do.

Once the students have left the classroom, distribute Student Handout 1, **Fact Sheet** and say, "We are going to conduct an experiment that involves carefully listening to and recording facts. As I read the following scenario to you, record all facts you hear in Column I, **Facts**."

Select one student (Student 1) and say the following: I am going to ask you not to record the information, but to listen carefully and to mentally record the facts. When I finish reading the scenario, I am going to ask you to repeat the facts as you heard them. I want the remainder of the class to record your responses

in the second column, marked "Hearsay 1". I will then ask you to go into the hall, and relay the information to one of the students in the hall. (NOTE: this is Student 2.) Tell Student 1 not to let the other student (Student 3) overhear what you say. Tell that person that they will be given information when Student 2 comes back into the hall. When you have relayed the information to Student 2, you and Student 2 should return to class.

Answer any questions about instructions.

Read the Scenario.

Allow Student 1 to tell all pertinent facts, then leave the room to relay information as described above.

While Student 1 is in the hall, say to the rest of the class. "When Student 2 comes into the room, I will ask him/her to tell me what he/she was told by Student 1. You should record what he/she says in the "**Hearsay 2**" column. You will repeat this process when Student 3 returns to the room, recording the information in "**Hearsay 3**" column.

Call for Student 2. Ask Student 2 to repeat what he/she was told, then instruct Student 2 to go into the hall and relay the information to Student 3. After relaying the information, both students should return to the class.

Ask Student 3 to repeat the information given by Student 2.

Once Student 3 has completed his/her "version" of the facts, ask the class to compare what they heard with what was said by each of the "witnesses". Record all responses on the board/overhead.

DEBRIEF by asking, "What has happened to the facts? How much information was lost or confused between student "witnesses" 1, 2, and 3?"

Allow for student responses and summarize.

Assign homework
Analyze a personal situation in which the reporting of facts of a situation, either by you or someone else, varied and speculate why the reporting of the "facts" differed.

DAY 2
Learning Activities:
Annotation and Fact Finding

Ask students to take out their homework assignments and conduct a short discussion on how personal bias impacted their personal "he said/she said" situation. Collect homework.

Distribute copies of the scenario (STUDENT HANDOUT 2) and ask students to take out their notes from **DAY 1**. Allow ten minutes for students to read and annotate the scenario.

Ask students to compare their original facts with the facts in the scenario, adding missed information and correcting any misinformation on their **FACTS/HEARSAY** handout.

Divide the class into groups of 4 or 5 students and distribute copies of Student Handout 3, **CASE STUDY SHEET**. Project a copy of the sheet on an overhead.

Conduct a full class discussion on how different perspectives of the situation might lead different individuals to interpret the facts in a variety of ways.

Select any one of the individuals named in the scenario and through discussion, model on the overhead/board the development of a fact sheet from that person's point of view.

Homework
Students will develop fact sheets from the scenario for these individuals:

A) Someone waiting for the bus who overheard Mary and Yolanda's conversation on Thursday, as described in the scenario.

B) Someone who was in the locker area who overheard Mary and Yolanda's morning conversation as described in the scenario.

C) Someone who was present and overheard Mary and Yolanda's conversation on Friday before getting on the bus.

D) Someone who was present in the cafeteria and overheard Mary and Yolanda talking, as described in the scenario.

E) Someone who was present at the bus on Thursday and Friday, in the locker area, and in the cafeteria.

F) A friend of Yolanda's who was not in any of the above-mentioned places, but was given information by Yolanda.

G) Mary's friend who was not in any of the places described in (A-E), but was given information by Mary.

H) Someone present at all of the places described in (A-E) above.

Remind students that only information stated in the scenario may be used.

DAY 3
Learning Activities:
Analyzing Information and Briefing Case

Strategy:
The Case Study

Ask students to take out homework assignments, **DEBRIEF** by conducting a short discussion on how point of view varies, based on:

-what you actually saw or heard
-your personal relationship/involvement with the situation/individual

Divide the class into three groups: Yolanda and witnesses, Mary and witnesses, the Principal.

Next, say, "Suppose the Principal has heard all the facts and has suspended both girls." What guided the Principal's decision?" Allow student responses. If no one mentions the school's policy regarding fighting, ask, "Is there any written policy regarding fighting? What does it say?" (The policy is listed on STUDENT HANDOUT #2, **SCENARIO**.)

Next say, "Yolanda and her parents do not agree with the Principal's ruling. They think that Mary was at fault, and if the paper had been returned the 'disagreement' would never have gotten out of hand. They want a hearing by the Suspension Appeal Committee to review the Principal's decision."

Distribute Student Handout 3, **CASE STUDY SHEET** and say to the class, "You have gathered the facts relating to the dispute between Yolanda and Mary and ruled out personal opinions and bias. Today you are going to put your information on a case study form. This is called briefing a case. Write all the facts relating to the Mary/Yolanda dispute under the **Facts** heading on your Case Study handout".

Next say, "In our legal system, the consequences for violating a law are spelled out. It is the duty of the judge or jury to rule on whether or not, based on the facts presented, the law has been violated. If the suspect is found guilty, then he/she must face the consequences for violating the law -- this is called sentencing. In Mary and Yolanda's case, a school rule against fighting was violated. What are the possible consequences of fighting? If you are not sure, check your scenario sheet. Look at the **Issue/s** section of your case study form. What happens if someone disagrees with the decision of guilt or innocence? Can that person appeal the original decision? Yolanda and her parents wish to appeal the decision to the Suspension Appeals Committee. In our legal system, a case can be appealed to a higher court. That body can uphold (agree) with the lower court ruling, or it can over-rule and strike down the decision."

"Note that the issue has been stated in the form of a question indicating Yolanda's rights and the rule in question. Use the remainder of the class time to write your opinion, (in the space marked **YOUR OPINION**) and the reasons (**ARGUMENTS**) based on the facts of the case and the law. Remember, your job is to clearly and concisely state the facts of the case and to present arguments supporting your decision, much like a lawyer would for a 'client'. If you do not finish in class, complete the assignment tonight."

Next say, "Tomorrow, we will have Mary and Yolanda and their witnesses present their case before the Principal and see what his/her decision is."

Homework Assignment
Tonight, you are to complete your arguments. Tomorrow, we will conduct a hearing and get the Principal's decision.

Day 4
Learning Activity:
Role Play

Mary and Yolanda and their witnesses use facts from their Case Study Sheet to present their "case" to the Principal.

Say to the class, "Today, the Principal will listen to Mary and Yolanda and determine the consequences for engaging in a fight." Write/project the following rules for the hearing on the board/overhead:

- Each student may speak for two minutes to present their case.
- Each student may call two witnesses to speak on their behalf. Each witness's testimony may last one minute.
- The Principal may question the disputants and the witnesses.
- The Principal's choices of actions are as follows:

  (a) Mary, three days out of school suspension for starting a fight, Yolanda, one day out of school suspension for fighting.

  (b) Yolanda, three days out of school suspension for starting a fight, Mary, one day out of school suspension for fighting.

  (c) Both girls, three days out of school suspension for fighting.

  (d) Both girls, one day out of school suspension.

  (e) Both girls, one day in school suspension, and referred to mediation to resolve the issue of the paper.

Conduct the Role Play (15-20 min.) Allow Principal five minutes to deliberate and write his/her decision, then read the decision to the class.

VOTE WITH YOUR FEET. Put Thumbs Up, Thumbs Down, and Question Mark signs in three places in the room and ask students to take a stand on the Principal's decision by moving to one of the areas. Ask students why they took that particular position.

Ten minutes before the end of class, summarize elements that influenced the Principal's decision. Use these questions to summarize:

- What must guide the Principal's ruling on the situation? How can the Principal remain objective?
- How are the roles of the Principal and a judge in a court of law similar/different?
- Why is it important to separate facts from opinions when serving as a witness?
- Why is a person who saw an event a more reliable witness than someone who hears about the situation second hand?
- Who do you think was at fault and why?
- Why is it important to have all the facts before taking sides?
- How is the Principal's decision like a judge's ruling?
- What is the purpose of a case study?

Homework Assignment
Make a comparison chart (similarities/ differences) between school rules and laws and the role of a Principal and a Judge.

Day 5
Learning Activity:
"**Play it again, Sam**" Creative Writing Exercise

Ask students to take out homework assignments. Debrief by allowing students to share their work and writing their comparisons on the board/overhead.

Pose this question to the class: What could have prevented Yolanda and Mary from fighting? Allow students to respond.

Next say, "Today, I would like you to work in groups and, using any of the information from our previous discussions, rewrite the scenario from the point of view of a friend who intervenes and resolves the conflict on Monday morning, prior to the fight. Remember, focus on the facts and peaceful alternatives to the problem."

Allow students to assemble in groups and use approximately 30 minutes to rewrite the scenario.

STUDENT ASSESSMENT

- Notes from Day 1
- Case Study Sheet from Day 2
- Role Play
- Comparison chart between school rules and the role of the principal and laws and the role of a judge.
- The summary questions may be answered in writing.

Enrichment/Extension

An examination of your school handbook to determine rules governing fighting is a logical extension of this lesson. Students could develop a series of hypothetical "cases" based on actual infractions and role play disciplinary hearings on other school rules.

Students might want to conduct a Suspension Committee Hearing.

EVALUATION

The following are suggested evaluation methods to be used for this unit of study.

- The Case Study Form
- Comparison between the Disciplinary Hearing and Judge's Ruling in a court case.
- Fact sheet

CROSS DISCIPLINARY APPLICATIONS

This lesson can be used in the affective domain to increase cultural awareness and sensitivity, in drama (role play), and to introduce alternative conflict resolution such as mediation.

TIPS FOR THE TEACHER

- To facilitate group work and save class time use the same grouping for all activities in this lesson.
- Duplicate all materials prior to the start of the lesson.
- Prepare and laminate the Thumbs Up, Thumbs Down, and Question Mark cards that are used in the Vote With Your Feet exercise. This is a very useful strategy that can be used in multiple situations.
- Prepare overhead transparencies in advance.
- Always end a lesson with a **Debrief** summary. This is also a good way to begin a class to "set the tone" for the lesson.

OPPORTUNITIES FOR UNDERSTANDING OTHER PERSPECTIVES

Topics of cross cultural conflict and conflict resolution.

Cross cultural communication and differences in communication styles.

STUDENT HANDOUT 2: SCENARIO - "HE SAID/SHE SAID"

READ AND ANNOTATE THE FOLLOWING SCENARIO

Mary and Yolanda, seventh graders, have never been close friends although they have gone to school together for the past five years. On Thursday, as they were waiting for their buses after school, Mary asked to see Yolanda's history report. Yolanda's bus arrived before Mary finished reading the paper. When Mary asked Yolanda to give back the paper, Mary asked if she could keep it until the next day. Before they could discuss it, the bus was ready to leave, so Yolanda begrudgingly said yes as the bus pulled away.

Friday morning, Yolanda waited by Mary's locker to retrieve her paper. Mary's bus was late and there were only five minutes left before the first period bell. When Mary came running to her locker, Yolanda asked, "Where's my paper?" Hurriedly, Mary responded, "I don't have time to talk to you right now. I am running late for first period, and we have a test! I'll see you later." Sam, Ray, Curtis, and Dana were standing close to the lockers when the conversation between Yolanda and Mary occurred. Mary hastily took books from her locker, placed them in her back pack, and turning, threw the pack over her shoulder. The back pack hit Yolanda, throwing her off balance and into Ray, who yelled, "Hey, why don't you watch where you're going?" Yolanda responded, "Don't get off on me! It's that girl (pointing to Mary's retreating figure) you need to talk to." As Mary turned to see what was going on, Yolanda shouted, "I am going to come looking for you later today, you hear?"

Yolanda then turned and walked down the hall, mumbling to herself, "That white girl gets on my nerves; this time she has gone too far. When I see her we're going to have it out!"

Later, at lunch, Yolanda and Mary were overheard arguing. Mary said in a loud voice, "Back off, girl, I told you I would give it (the history report) back. I already said I'm sorry I forgot it this morning, I'll bring it to you on Monday." To which Yolanda replied, "Now you really are getting on my nerves." Putting her hands on her hips, she said, "Don't mess with me. Just give me my paper; you'd better have it on Monday, or else!"

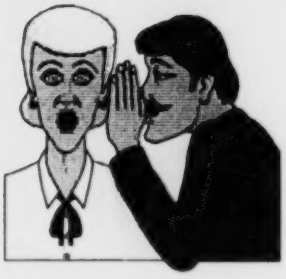
"I'll have it on Monday, just like I said," Mary said as she headed off to class.

As the two girls waited for the bus after school, Yolanda approached Mary who said, "Now don't you start bugging me again; I told you I would give you the paper on Monday," to which Yolanda replied, pointing a finger at Mary, "You'd better, girl, or else you and me are going to have more than words!"

On Monday, Yolanda and Mary were sent to the Principal's office for fighting in the locker area before school. Neither girl was talking, but Yolanda was clutching a badly crumpled and stained paper that appeared to be a history report.

The student handbook specifically states that "... anyone caught fighting will be suspended for up to 5 days, may be referred for mediation, and, depending on the nature of previous offenses, may face expulsion."

STUDENT HANDOUT 1
FACTS AND HEARSAY



RECORD THE FACTS AS YOU HEAR THEM IN COLUMN 1, FACTS. USE THE REMAINING THREE COLUMNS TO RECORD THE HEARSAY AS REPORTED BY STUDENTS 1, 2, AND 3.

FACTS	HEARSAY 1	HEARSAY 2	HEARSAY 3

STUDENT HANDOUT 3
CASE STUDY SHEET

USE THIS SHEET TO RECORD THE FACTS AND THE DECISION OF THE PRINCIPAL'S HEARING.

YOUR NAME:	CASE NAME: Mary/Yolanda dispute

FACTS:

ISSUE/S: (stated as a question.)
Were Yolanda's rights violated when she was found guilty of violating the school rule (policy) regarding fighting, and suspended?

ARGUMENTS:

YOUR DECISION:

PRINCIPAL'S DECISION:

Students' Rights - How Far Do They Go?

Kathy Aldridge
Bowie Elementary
Abilene, Texas

ABSTRACT
When studying the Bill of Rights, students are always interested in finding out what their rights are in a school setting and in society. This lesson will focus on landmark cases from the last 50 years that deal specifically with students' rights.

OBJECTIVES
As a result of this lesson, students will:

- Express and defend their position concerning many law-related issues.
- Gain substantive knowledge concerning students' rights as interpreted by our justice system.
- Develop the critical thinking skills of analysis, synthesis and evaluation.

GRADE LEVEL
Grades 5-8

TIME REQUIRED
Three 45-minute class periods

MATERIALS
1. Copies of the Bill of Rights
2. "Where do you stand?" Handout
3. Set of case summaries
4. Historical marker sheet
5. Markers

PROCEDURE

1. Review the Bill of Rights with students.

2. Establish a continuum on the chalkboard or wall. Place signs with the following positions on the continuum (in the order listed): "Strongly Agree," "Agree," "No Opinion," "Disagree," and "Strongly Disagree." Using the information on Handout 1, the teacher should announce each statement/issue and have students stand in front of the sign that best describes their opinion concerning the statement/issue. Call on students to defend/justify their positions.

3. To familiarize students with historical court cases that involve teenagers who have influenced or challenged our laws, give each student or pair of students a case summary from Handout 2. (These may be cut out and laminated for repeated use.) Students should read about their case and then complete a historical marker (Handout 3) by listing the name of their person and the date of the court decision, and telling why their person is significant. In the circle at the top of the marker, students should draw a symbol or symbols to represent facts of the case, issue, and/or the court decision.

4. After historical markers have been completed, each student will display his/her marker before the class and tell the class about their person. Historical markers may then be mounted on the wall (in chronological order) or be put on a bulletin board.

EVALUATION
Following class presentations, put prepared nametags listing the names of the people mentioned on the historical markers on the back of each student in the class. Students must discover their identity by asking other classmates questions that can only be answered by "Yes" or "No." Students may ask a classmate no more than two questions, after which they must find a new person to question. Continue the activity until everyone has discovered who they are.

DEBRIEFING

1. Ask students the following questions:

- What was the constitutional issue the court was asked to decide for each case?

- If you had been a judge for the case you were assigned, would you have made the same decision or a different one? Why?

- Was anything happening historically that might have influenced the decision(s) made by the court(s)? What?

- What are the long-range implications of the court's ruling in each case?

- Rank the ten cases in order of importance and defend your selection.

2. Repeat the continuum activity using the statements from Handout 1. Ask students if they have changed their minds concerning any of the issues. Have them defend their thinking.

TIPS FOR THE TEACHER

Divide students into groups of four or five. Have students create a collage that depicts, through the use of symbols and words, the following topic(s):

"Student's rights are.. . . . . "
"The Bill of Rights for students means...."

Provide a piece of cardboard, magazines, newspapers, glue, and scissors. After collages are completed, have the other groups tell the group that is showing their collage what feeling their collage gives and what they think the symbols represent. Have the students who created the collage respond to classmates' observations and share additional comments.

BIBLIOGRAPHY

- Segal, Naomi. "The Bill of Rights and You." *Junior Scholastic* 22 September 1989: 46,14.
- Starr, Isidore. *The Idea of Liberty: First Amendment Freedoms*. St. Paul: West Publishing Co., 1978.
- *Students and the Supreme Court*. Calendar. Boulder, Colorado. Safeguard Law Related Education Program, 1993.

HANDOUT #1

WHERE DO YOU STAND?

1. Constitutional issues dealing with students aren't as important as those dealing with adults.

2. It is the school's obligation to protect students from reading material, actions, and language that is harmful.

3. Students should follow school rules/policies whether they agree with them or not.

4. No religious practices/activities/celebrations should be allowed in public schools.

5. While at school, students should have total freedom to express themselves through the clothes they wear, hair styles, etc....

6. The constitutional rights of students are not the same as adults when students are on school property.

7. It is the school's obligation to take disciplinary action when necessary.

8. Schools should only discipline students when their actions are disruptive.

9. Students should be free to use any type of language they prefer to use while at school.

10. School publications, written by students, should be able to cover any topic, without censorship.

11. School officials have the right to search people, places, and possessions if they suspect something illegal.

12. Every child, regardless of race, religion, sex, has the right to equal educational opportunities.

13. If a teenager commits a very serious crime, he/she should be punished as though he/she was an adult.

HANDOUT #2

Case 1 - Lillian Gobitis

In 1935, when I was twelve, my ten-year-old brother and I were suspended from school because we refused to salute the flag and recite the Pledge of Allegiance, both of which were required daily. My family and I were Jehovah Witnesses and saluting the flag was against our religious beliefs. My family brought suit against school authorities requesting that my brother and I be excused from the flag salute requirement. In 1940, the Supreme Court ruled against my family stating that the school could require saluting the flag because it developed patriotism. (Three years later the Supreme Court reversed its decision.) Reference: *Millersville School District v. Gobitis*, 60 S. Ct. 1010 (1940).

Case 2 - Cheryl Labrenz

When I was born, I had a serious medical condition. The doctors said that without a blood transfusion, I would die. My parents were members of the Jehovah Witness sect and objected to this type of medical treatment because transfusions were prohibited by their religion. In 1952, the Illinois Supreme Court gave custody of me to a court-appointed guardian, who then agreed to the blood transfusion. The court said,"the right to practice religion freely does not include the liberty to expose a child to death." Reference: *People ex rel. Wallace v. Labrenz*, 344 U.S. 824 (1952).

Case 3 - Mary Beth Tinker

In December of 1965, my brother, a friend, and I wore black armbands to school as a sign of protest against the involvement of the U.S. in the Vietnam War. (Two days earlier school officials had heard about our upcoming plans and adopted a policy that forbade the wearing of armbands in school.) The school principal demanded that we remove our armbands and suspended us from school. In 1969, the Supreme Court ruled in my favor and stated that our silent expression didn't disrupt school or hinder the rights of other students. Reference: *Tinker v. Des Moines*, 89 S. Ct. 733 (1969).

Case 4 - Tom Breen

In 1968, I was expelled from my high school because the superintendent said my long hair was in violation of the school dress code, which required that hair should not hang below the collar line in the back. I was told that I would not be readmitted to school until I cut my hair. School officials claimed my refusal to cut my hair caused a "disruptive influence or factor within the school," though no evidence was ever presented that a disruption had taken place. In 1969, the Wisconsin U.S. District Court ruled in my favor stating that "freedom to wear one's hair at a certain length is constitutionally protected." Reference: *Breen v. Kahl*, 296 F. Supp. 702 (W.D. Wis. 1969).

Case 5 - Cindy Gambino

In 1976, I served on the staff of my school student newspaper and wrote an article on birth control based on a student survey taken at my school. My principal thought parts of my article violated a school board policy that prohibited sex education until the board had made a decision concerning a new sex education class. I was told the article could be published if the questionable parts were removed. I wanted all or none of it printed. In 1977, the U.S. Court of Appeals ruled in my favor and stated that the paper was established and operated as a channel for student expression on a wide variety of topics and therefore protected by the First Amendment. Reference: *Fairfax County School Board v. Gambino*, 564 F.2d 157 (1977).

Case 6 - T.L.O.

(My initials were used to protect my identity because I'm under the age of 18) In March of 1980, a teacher found another girl and me smoking in the restroom, which was against school rules. After I was taken to the office and denied I was smoking, the Vice Principal asked for my purse, which I handed to him. When he looked in my purse, he found cigarettes and articles associated with selling drugs including rolling papers, marijuana, and drug equipment. After I was convicted of drug dealing, I filed a suit that my Fourth Amendment rights to freedom from unreasonable search and seizure had been violated. In 1985 the Supreme Court ruled against me stating that school officials can legally search students if they have reasonable cause to believe school rules or the law has been violated. Reference: *New Jersey v. T.L.O.*, 105 S. Ct. 733 (1985).

Case 7 - Matthew Fraser

In April of 1983, I made a nomination speech for a classmate who was running for a school office. Students of varying ages could attend the nomination assembly or go to study hall. During my speech, I used suggestive language that caused some of the students to hoot, yell, make gestures, or become embarrassed. I did show my speech to several teachers before my presentation, and they warned me not to present it. The next day the principal suspended me from school stating that my use of indecent language was a violation of school rules. In 1986, the Supreme Court ruled against me stating that it was the school's duty to prohibit offensive language during a school-sponsored activity. Reference: *Bethel v. Fraser*, 106 S. Ct. 3159 (1986).

Case 8 - Cathy Kuhlmeier

I was on the staff of my high school newspaper, the *Spectrum*, which was part of a journalism course. The May issue included articles about teenage pregnancy and the effects of divorce on students. My principal removed both of the articles from the paper before it was printed. He felt the pregnancy article didn't protect the identities of the pregnant girls who were interviewed, and that it was inappropriate for young readers. He removed the second article because it did not allow the father of the girl who was interviewed to respond to his daughter's comments. Overturning a previous decision, the Supreme Court ruled that since the *Spectrum* was a school-sponsored newspaper, school officials had the right to regulate its content. Reference: *Hazelwood School District v. Cathy Kuhlmeier*, 108 S. Ct. 562 (1988).

Case 9 - William Wayne Thompson

I, along with three adults, kidnapped and murdered Charles Keene, who had abused my sister when she was married to him. I was convicted of first degree murder and sentenced to be executed. Since I was not yet sixteen-years-old when I took part in the murder, my sentence was appealed on the grounds that capital punishment violated my Eighth Amendment rights and was cruel and unusual punishment. In 1988, the Supreme Court reversed my death sentence, stating that I was too young to die. I am now serving a life sentence in the Oklahoma State Prison. Reference: *Thompson v. Oklahoma*, 108 S. Ct. 2687 (1988).

Case 10 - Bridget Mergens

I wanted to organize a Christian fellowship and Bible study club at my high school. My high school principal told me that we wouldn't be able to hold meetings on school property because it would violate the separation of church and state as stated in the First Amendment. I sued the school district on the grounds that it was discriminating against my club. In 1990, the Supreme Court ruled in my favor. Other groups that were not related to school courses met at my school, so the school, therefore, could not discriminate against my club for political and religious reasons. Reference: *Board of Education of Westside Community Schools v. Mergens*, 110 S. Ct. 2356 (1990).

The Bill of Rights

(Effective December 15, 1791)

AMENDMENT I.

Congress shall make no law respecting an establishment of religion, prohibiting the free exercise thereof, or abridging the freedom of speech, or of the press, or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

AMENDMENT II.

A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed.

AMENDMENT III.

No Soldier, in time of peace be quartered in any house, without the consent of the Owner, nor in time of war, but in a manner to be prescribed by law.

AMENDMENT IV.

The right of the people to be secure in their persons, houses, papers, and effects against unreasonable searches, and seizures shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the places to be searched, and the persons or things to be seized.

AMENDMENT V.

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in Militia, when in actual services in time of War or public danger; nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

AMENDMENT VI.

In all criminal prosecutions, the accused shall enjoy the right to a speedy trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defense.

AMENDMENT VII.

In Suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury, shall be otherwise re-examined in any Court of the United States, than according to the rules of the common laws.

AMENDMENT VIII.

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

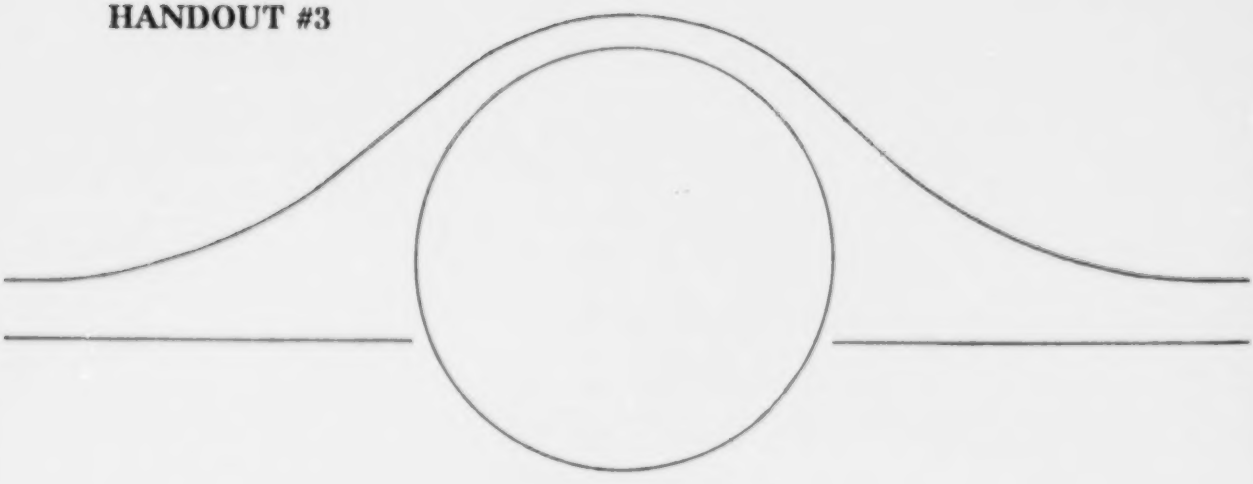
AMENDMENT IX.

The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people.

AMENDMENT X.

The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

HANDOUT #3



HISTORICAL MARKER

WHO:

WHEN:

WHY:

Striking The Balance: The Bill of Rights, Technology, and Law Enforcement

Rose M. Thompson
St. Louis Public Schools
St. Louis, Missouri

ABSTRACT
This lesson focuses on the important balance between law enforcement's need to use technological advances to protect society and citizens' needs to have their constitutional rights protected. The lesson is in three segments. The following activities are designed to help students become aware of the basic liberties guaranteed by the Bill of Rights, explore present law-related technology, and to help students understand how law enforcement agencies must comply with these rights when using advanced forensic methods and other technology to perform present and future law enforcement duties.

AUDIENCE
Middle school students

TOTAL TIME REQUIRED
Four 50-minute class periods

TOPIC I
The Bill of Rights.

TIME REQUIRED
Two 50-minute class periods

OBJECTIVE
As a result of this lesson, students will be able to demonstrate an understanding of the first ten amendments to the United States Constitution.

MATERIALS
1. Flip chart
2. A copy of the Bill of Rights
3. Appendix One: Student Handout #1 **Background Information**
4. Writing paper
5. Materials to make a scrapbook

PROCEDURE
Pre-write the unit lesson title and the definition for the word "technology" on flip chart paper. Read them out to students. Tear off sheet and post.

Referring to the posted unit lesson title sheet, ask students what their learning expectations are from the total four-day lesson.

List student expectations on a second sheet of flip chart paper. Confirm the expectations that will be covered based on the goals/objectives of the lesson. Tear off the expectations sheet and post it.

Solicit from students the names of several federal, state, and local law enforcement jobs or agencies. List on flip chart. Tear off and post.

Distribute Student Handout #1 **Background Information** to each student. Call on selected students to read the handout aloud as the other students read silently.

Distribute a copy of the Bill of Rights to each student. Divide students into ten groups. Each group will designate a recorder and a reporter. Present an amendment from the Bill of Rights to each group. Each group will be responsible for neatly copying the amendment on a sheet of paper, discussing and writing the meaning of the amendment, and preparing a brief statement about the necessity of the amendment. Each group will present its finished product to the class after approximately 10-15 minutes. Move quietly from group to group as students are interacting.

EVALUATION
Asking for student expectations, get the students involved immediately. The method is a helpful lead-in to focusing on the goals and objectives of the lesson. Listening to students while moving from group to group during student interaction time will enable the teacher to determine if students are on task. Try not to interrupt students unless the students ask for assistance.

CLOSURE

- Why was the Bill of Rights added to the U.S. Constitution?
- Approximately how old is the U.S. Constitution?
- What comes with new and advanced technology?

TIPS FOR THE TEACHER

It would be helpful to have a chart size copy of the U.S. Constitution and the Bill of Rights as visual aids while providing background information on the Constitution and the Bill of Rights.

Save all forms of student-written responses and visual aids. Post or creatively display individual or group work. By the end of the fourth day, the classroom should boldly reflect the law enforcement and technology-related focus.

Designate or solicit three to four students to creatively design and make a Bill of Rights Scrapbook utilizing the group papers previously prepared by students.

TOPIC II

The Use of Science in Law Enforcement

TIME REQUIRED

One 50-minute class period

OBJECTIVE

As a result of this lesson, students will:

- Understand the role of forensic science in law enforcement.
- List different examples of evidence that can be tested scientifically to help law enforcement officers solve crimes.

MATERIALS

1. Flip chart
2. Appendix Two: Student Handout #2 **A Visit to a Crime Lab**
3. Writing Paper

PROCEDURE

1. Review main ideas from Topic I regarding Law Enforcement and the Bill of Rights.

2. Focus on the new lesson by asking students to provide at least three examples of items that are often sited as evidence at a crime scene. Ask for examples of the kind of information that could be obstained from the evidence. List student responses on the chart paper and post.

3. Inform students that the examples they provided are used in a field known as "forensic science."

4. Poll the class to learn if any students have visited a crime lab. If so, allow the students to share what they saw or learned with the class.

5. Give Student Handout #2 to students.

6. Students will read the handout and answer related questions.

EVALUATION

Check for accuracy of student responses to oral and written questions.

CLOSURE

Have students close by discussing written answers to questions from Handout #2.

TIPS FOR THE TEACHER

Arrange for a class of students to make a future visit to the crime lab of the local police department. Be prepared for some parts of the lab to be off limits for touring due to the often delicate nature of the evidence being processed. Arrangements should be made for one of the specialists in the off-limit area to meet with students in another designated area in order to answer questions.

Based on the findings of a visit to a crime lab or a call to a crime lab, have students research one of the scientific techniques used to examine criminal evidence and report their findings. If the school has a computer lab, the teacher or the students may be able to make arrangements for students to type their research papers on the computers.

If time allows, present each student with a copy of an interesting news article that describes a crime and provides information about evidence that led to the arrest and/or conviction of a suspect. Have students summarize the article and list the incriminating evidence on a sheet of paper. Glue the summaries and articles to colorful construction paper and display.

TOPIC III
Law Enforcement in the 21st Century

TIME REQUIRED
One 50-minute period

OBJECTIVE
As a result of this lesson, students will be able to explain the important balance between law enforcement's need to utilize new technological advances effectively to protect society and citizens' needs to have their constitutional rights protected.

MATERIALS
1. Flip chart
2. Appendix Three: Student Handout #3 **Reinforcement Sheet**
3. Appendix Four: Teacher Assessment Sheet
4. A copy of the Bill of Rights
5. Writing paper

PROCEDURE
1. Review forensic methods used by law enforcement to solve crimes.

2. Have students brainstorm about technological advances that they feel could become a reality in the 21st century. List student responses on the flip chart.

3. Students will express their views about how law enforcement would be affected by these changes. (More training and equipment needed; must enforce laws that come with new technology).

4. Review Amendments Four and Five of the U.S. Constitution with students.

5. Distribute Appendix Three: Student Handout #3 **Reinforcement Sheet**. Divide the class into six groups. Designate the groups as group 1, group 2, and so on to correspond with the six questions on Student Handout #3. Allow time for the students to answer all the questions on their sheets. The designated groups will report out on only their agreed upon answer from their assigned group question. Other students may voice their agreement or disagreement.

EVALUATION
Listen to student oral and written responses to determine if they are making the connection that maintaining the balance between effective law enforcement in the wake of advancing technology and honoring individual rights is and continues to be a challenge.

CLOSURE
Share the suggested teacher reply answers on Appendix Four: **Assessment Sheet** with the students.

Whatever the technological advances may be, what must law enforcement officers and agencies do? (Follow legal guidelines).

TIP FOR THE TEACHER
Allow students, who wish to do so, (STEP) illustrate the six futuristic situations described in Student Handout #3.

Ask students to watch a television show or a video on law enforcement of the future. Write down the futuristic laws the officer(s) must enforce. Describe the kind of equipment used and explain whether or not the way the equipment was used violated the U.S. Constitution.

BIBLIOGRAPHY

- Riekes, Linda and Slane, Sharon, *Understanding Law Enforcement* (Teacher's Resource Guide) Law in Action Series St. Paul, MN: West Publishing Company, 1992, pp. 219-222.
- Riekes, Linda and Slane, Sharon, *Understanding Law Enforcement* Law in Action Series (Student Book) St. Paul, MN: West Publishing Company, 1992, p. 168.

APPENDIX ONE
STUDENT HANDOUT #1
BACKGROUND INFORMATION: THE U.S. CONSTITUTION

The U.S. Constitution consists of three main parts. The preamble introduces the Constitution and explains its purpose. The seven articles outline how our government is organized. The amendments represent changes in or additions to the original Constitution.

Over 200 years have passed since the Constitution was written. A total of 27 (twenty-seven) amendments have been added. The first ten amendments, known as the Bill of Rights, were ratified in 1791. These rights were added because many people felt that the new central government did not recognize individual rights. The Bill of Rights listed the guaranteed rights and freedoms requested by the citizens.

Due to the built-in flexibility of the Constitution, Americans have been able to maintain both social order and personal freedom for two centuries. Apparently, the writers of the Constitution were very wise. It is often stated among contemporary people that in spite of their wisdom, the writers of the Constitution could not possibly have foreseen the vast scientific and technological changes that have taken place in our society today. Newspapers, television programs, documentaries, and other media appear to support the fact that law enforcement work depends heavily on new scientific methods and techniques to detect, investigate, and solve crime. It is important for us to understand that with new and advanced technology comes new crimes and new legal issues. While improving the abilities of law enforcement agencies to fulfill their duties, technological progress may also bring about a great threat to individual rights.

Source:
Riekes, Linda and Slane, Sharon, *Understanding Law Enforcement* Law in Action Series (Student Book) St. Paul, MN: West Publishing Company, 1992, p. 161.

APPENDIX TWO
Student Handout #2
A Visit to a Crime Lab

A visit to the crime lab of a local police department could result in obtaining a wealth of information about forensic science. Forensic science is the use of science for discussion, argumentive, or legal purposes. There appear to be three main divisions or categories in this field: forensic medicine, forensic toxicology, and forensic chemistry. The extent of service of forensic laboratories vary; there are full-service, regional, and specialty labs. The crime lab is probably the best known of the three types of labs.

Some of the items most often dealt with in crime laboratories include analysis of:

- body fluids and viscera (the soft organs inside the body) - to check for poisons, drugs, or alcohol to assist in learning the amount taken prior to death.
- blood, saliva, and seminal stains - to be analyzed for type and species.
- hairs - to determine if animal or human; to determine race, body area of origin.
- pills and pipe residue - for the presence of controlled substances that could be connected to a suspect.
- paint, glass, plastics, metals - to compare to known materials.
- fibers - to determine the type.
- ink on documents - to detect forgeries, determine type or age to link suspect to crime scone.
- tool marks - can be identified and linked to tools or objects in the possession of a suspect.
- fingerprints - to link an individual to a crime by matching a suspect's prints with those found at the crime scene.
- bites - to match bite marks of a suspect to those found on a body.
- genetic analysis (DNA) - to match DNA present in forensic samples such as hair and body fluids of a suspect.

The scientific resources available for assisting law enforcement is plentiful. Forensic specialists, however, must use extreme caution when involved in the handling of evidence before and after it leaves the laboratory. There are definite stages evidence must follow. Certain legal requirements must be met at each stage if the evidence is to be approved for use in a court of law.

ACTIVITY

Use the information in the handout to answer the following:

- What is forensic science?

- List the three main categories of forensic science included in this handout.

- List at least six examples of evidence and how that evidence could be used in a criminal investigation.

- Why must legal requirements be placed on how law enforcement specialists handle evidence found at a crime scene?

(A NOTE TO THE TEACHER)
Information in this handout was based on research from a fact-finding tour of the St. Louis Metropolitan Police Department's Crime Lab and an interview with lab personnel.

APPENDIX 3
STUDENT HANDOUT #3
REINFORCEMENT

For each of the six examples below, indicate whether or not the activity would violate the Fourth Amendment to the U.S. Constitution. Circle the correct response and explain your answer.

YES NO 1. Law enforcement officers looking at a person's cancelled checks that are on file at the bank to use as evidence against that person at a criminal trial.

YES NO 2. A computerized camera placed on the roof of a police car photographs license plate numbers, which are then transmitted to a certain location to check to see if each car is stolen.

YES NO 3. The electronic mail of a company's workers is randomly monitored by law enforcement officers to see if illegal drug sales are involved.

YES NO 4. A law enforcement officer is beamed into someone's house.

YES NO 5. A law enforcement officer checks to see if a person has taken a drug by scanning his body with an X-ray gun.

YES NO 6. A roomful of people is unknowingly checked for fingerprints by law enforcement officers who scan the room with a hidden fingerprint scope.

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Riekes, Linda and Slane, Sharon, *Understanding Law Enforcement* (Teacher's Resource Guide) Law in Action Series. St. Paul, MN: West Publishing Company, 1992, pp. 221-222.

APPENDIX 4
TEACHER SHEET
ASSESSMENT/REINFORCEMENT

No. The U.S. Supreme Court has held that once a person has written a check, he or she knows that it will be seen by bank officials. Therefore, there is no reasonable expectation of privacy in the check. However, Congress passed a law requiring law enforcement officials, in most cases, to give notice to the bank customer that they intend to obtain the bank records and permits the bank customer to argue that they should not have access to the records.

No. License plate numbers are exposed to the public and therefore a person has no reasonable expectation that the number will remain private.

Probably yes. Regular mail is protected from opening by law enforcement officials unless there is probable cause and a warrant. Electronic mail is not sealed in an envelope but it is likely that it will be protected from seizure without a warrant, just as telephone conversations are protected by the Fourth Amendment.

Yes. A police officer may not enter a person's home without a search or arrest warrant based on probable cause. Beaming an officer into a home is no different from the officer entering through the front door.

Probably yes. An x-ray of a person's body is a serious intrusion that would constitute a search. The Court has said that surveillance from the air of a person's property with a camera does not violate the Fourth Amendment, but use of high-powered equipment not generally available to the public, of a very private area as in this case, would probably violate the amendment.

Probably no. The people are not being seized when the scope is on -- they are unaware of the scope's presence -- and the seizure of fingerprints would be considered a slight intrusion, unlike the X-ray of a person. On other hand, fingerprints are more private than a license plate, so it is arguable that the police need at least reasonable suspicion before using the scope.

Source:
Riekes, Linda and Slane, Sharon, *Understanding Law Enforcement* (Teacher's Resource Guide) Law in Action Series. St. Paul, MN: West Publishing Company, 1992, pp 219-220.

THE BILL OF RIGHTS

(The first ten amendments effective December 15, 1791.)

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The right of the people to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the places to be searched, and the persons or things to be seized.

AMENDMENT V.

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in Militia, when in actual services in time of War or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

AMENDMENT VI.

In all criminal prosecutions, the accused shall enjoy the right to a speedy trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defense.

AMENDMENT VII.

In Suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury, shall be otherwise re-examined in any Court of the United States, than according to the rules of the common laws.

AMENDMENT VIII.

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

AMENDMENT IX.

The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people.

AMENDMENT X.

The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

Slavery -- A Lesson in Discrimination

Joseph Padilla
Ahwahnee Middle School
Fresno, California

LESSON OVERVIEW
In this lesson students will experience discrimination in the form of an experiment. Students will be categorized according to their eye color, and a small group of students, usually the blue-eyed students, will be segregated and discriminated against by the teacher and the other students. This lesson should be used as an introduction to colonial life and the beginning of slavery in the English Colonies. It can also be used as an introduction to the teaching of slavery prior to the Civil War.

OBJECTIVES
Students will:
- Role play either the discriminated minority group or the elitist majority.
- Feel what it is like to be a member of one of the above groups.
- Become aware that discrimination is damaging and wrong.

GRADE LEVEL
Middle School U.S. History class

TIME
Suggested time of 1 to 2 days

MATERIALS
1. Handout 1: Sample reading for the majority group
2. Handout 2: Sample reading for the discriminated group
3. Handout 3: Evaluation questions for all students
4. Various classroom materials -- pencils, textbooks, a broom, a mop, gum or candy

PROCEDURE
1. At the beginning of the period, prepare your class for this activity by explaining to them that they will take part in a learning experiment. Tell them its *real* purpose is not to make one group of students feel inferior or another group of students to feel superior, even though that is the way they may feel. Tell them this experiment will last one class period and that everyone will be treated as equals afterwards. It is very important that they all understand to cooperate fully with whatever the teacher asks them to do.

2. After the class has been prepped, place on the chalkboard "eye colors" and ask the class to list as many different eye colors as there are in the class, then mark the number of students with each eye color with a show of hands.

3. It is now up to the judgment of the teacher to decide which group of students to use as the experimental group. In a class of about 30 students it is best to use a group of 10 students or less. Usually the blue-eyed students fall in that category, or it may be the green-eyed students.

4. Ask the blue-eyed (or other selected eye color) students to gather their materials and personal belongings from their desks and place them in an area of the classroom out of the way. They should then stand as a group in the rear of the classroom. The class can be set up in rows or in groups, (whatever the normal class set up is) is fine. Have the non blue-eyed students move forward to fill any empty seats and then have the blue-eyed students sit in the desks to the rear of the classroom.

5. Tell your class that you, the teacher, will be making a hypothesis, an educated guess, about the blue-eyed students in the classroom. Say "all blue-eyed students are inferior, ignorant, unintelligent, and slow. They don't have the right to sit or really even be in the same classroom with the rest of us superior, intelligent, and sharp students."

6. Many of your students will be shocked, and a reminder that this is an educational experiment might be necessary at this time. Tell the class that you will now prove your hypothesis. Pass out a copy of Handout 1 to all the majority group. When duplicating Handout 1 cut it in half to save paper. Pass out a copy of Handout 2 to the experimental blue-eyed group.

7. Ask the non blue-eyed students not to let the minority look at their handouts. Have each of the blue-eyed students attempt to read the first five words of their handout. Mimic and criticize each of their attempts to read the handout. Then have a few of the other students read the first five words of their handout. Praise each of these students greatly and again criticize the blue-eyed students for their lack of intelligence. Continue this procedure with the second sentence of their handouts and the last few words of the handout. Collect all of the handouts from each of the students.

8. Tell the class that you have proved your hypothesis and therefore in order for the blue-eyed students to remain in the classroom they will need to perform extra duties/chores for the rest of us. Ask if there are any majority students who need their pencils sharpened. Direct a couple of blue-eyed students to carefully sharpen two or three pencils, without breaking them. When they are done sharpening the pencils, they are to return the pencils to their owners with this phrase, "I hope you are pleased with my work Miss/Mr. (last name of the student)."

9. Requiring the blue-eyed students to perform these extra duties is in the discretion of the teacher. Among chores that can be done in the class are: sweeping, mopping, picking up textbooks that "accidentally" were placed on the floor by the majority students, and picking up trash that "accidentally" fell on the floor, etc.

CLOSURE
Close this activity with a few classroom discussion questions such as:

- Why were these few students singled out to be discriminated against?
- How much sense does it make to discriminate against someone because of their eye color?
- How else might people be discriminated against?
- How much sense does it make to discriminate for those other reasons?
- How does discrimination hurt people, both the group discriminated against and those doing the discriminating?
- What about slavery in the United States, why were those people discriminated against and made into slaves?

EVALUATION
Since most students have a strong reaction to this lesson, each student will want to say what they think and feel about it. Use Handout 3 as a way of evaluating whether students achieved the lesson's objectives.

TIPS FOR THE TEACHER
Carefully follow the recommendations in the procedures, especially preparing the students for this lesson. Many parts of this lesson can be changed at the discretion of the teacher. Every school and classroom is different.

BIBLIOGRAPHY
Hewitt, Don. *Minute by Minute*. New York: Random House, 1985.

This book lists the "60 Minutes" shows that have stood out through the years. Included in it is the show that was done on a teacher who experimented with her blue-eyed students as I have done in this lesson.

Lincoln, Abraham. "Gettysburg Address," *Favorite Poems, Old and New*, edited by Helen Ferris. New York: Doubleday, 1957.

I used the "Gettysburg Address" just as a reference to be read by the students in this lesson.

Handout 1

The brave men, living and dead, who struggled here, have consecrated it far above our poor power to add or detract. The world will little note nor long remember what we say here, but it can never forget what they did here. It is for us, the living, rather, to be dedicated here to the unfinished work for which they who fought here have thus far so nobly advanced.

The brave men, living and dead, who struggled here, have consecrated it far above our poor power to add or detract. The world will little note nor long remember what we say here, but it can never forget what they did here. It is for us, the living, rather, to be dedicated here to the unfinished work for which they who fought here have thus far so nobly advanced.

Handout 2

Τηε βραωε μεν, λιωινγ ανδ δεαδ, ωηο στρυγγλεδ ηερε, ηαωε χονσεχρατεδ ιτ φαρ αβοωε ουρ ποορ ποωερ το αδδ ορ δετραχτ. Τηε ωορλδ ωιλλ λιττλε νοτε νορ λονγ ρεμεμβερ ωηατ ωε σαψ ηερε, βυτ ιτ χαν νεωερ φοργετ ωηατ τηεψ διδ ηερε. Ιτ ισ φορ υσ, τηε λιωινγ, ρατηερ, το βε δεδιχατεδ ηερε το τηε υνφινισηεδ ωορκ φορ ωηιχη τηεψ ωηο φουγητ ηερε ηαωε τηυσ φαρ σο νοβλψ αδωανχεδ.

Τηε βραωε μεν, λιωινγ ανδ δεαδ, ωηο στρυγγλεδ ηερε, ηαωε χονσεχρατεδ ιτ φαρ αβοωε ουρ ποορ ποωερ το αδδ ορ δετραχτ. Τηε ωορλδ ωιλλ λιττλε νοτε νορ λονγ ρεμεμβερ ωηατ ωε σαψ ηερε, βυτ ιτ χαν νεωερ φοργετ ωηατ τηεψ διδ ηερε. Ιτ ισ φορ υσ, τηε λιωινγ, ρατηερ, το βε δεδιχατεδ ηερε το τηε υνφινισηεδ ωορκ φορ ωηιχη τηεψ ωηο φουγητ ηερε ηαωε τηυσ φαρ σο νοβλψ αδωανχεδ.

Handout 3

1. How did you feel when you were being discriminated against in class, or how did you feel when you were discriminating against the other students?

2. What do you think about forcing a group of people into slavery because of their skin color?

3. Why is being a slave such an awful thing?

4. After seeing and experiencing what you did today, what harmful effect does discrimination have on the people being discriminated against?

5. Can you think of any good reasons people should be discriminated against? If so, think if those reasons are good enough to justify the harm done? Are those reasons still good enough to discriminate?

Exercising Your Rights: Pantomimes and Case Studies with the Bill of Rights

Malcolm W. Moore, Jr.
Thomas Jefferson Middle School
Decatur, Illinois

OVERVIEW
With this lesson students can exercise their bodies and minds as they participate in pantomimes and case studies that will help them become familiar enough with the Bill of Rights to understand, manipulate, apply, and appreciate its remarkable guarantees and freedoms.

GOALS
As a result of these lessons, students will:

- Understand what a right is and why rights are so important to people.
- Participate in a drill and practice of the content of the Bill of Rights by participating in a pantomime activity.
- Explore how the Bill of Rights applies to their everyday life through use of case studies.

AUDIENCE
Upper Elementary/Middle School

TIME TO COMPLETE
Three 45-minute class periods

DAY 1: What is a Right?

Materials
Each student will need a copy of the worksheet "**Is It a Right?**" and a pencil.

Vocabulary
Constitution
Bill of Rights
Right

Procedures
1. Begin by discerning what the students already know about rights in general and the Bill of Rights in particular. Use a formal assessment, or simply ask them.

2. A way to explain these complex ideas to younger students is to ask them about product guarantees and their purposes. This usually gets an interesting discussion started as each has some knowledge or a story to share.

3. Move the discussion along by explaining that our Constitution is a plan for government. At the time it was adopted, there was quite a discussion about this new form of government and how the people were to keep it from getting too powerful and possibly taking away some of their rights (rights: certain things -- freedoms, ideas, actions -- to which all persons are entitled). Some persons wanted guarantees of certain rights in the Constitution that the government could not take away. The Bill of Rights is that guarantee (Bill of Rights: a list of rights guaranteed to the people that the government may never take away).

4. Following a discussion of rights, including rights the students know about and think they have, give each student (or group of students) a copy of the worksheet "**Is It a Right?**" Tell them (as the directions do) that each of the items on the worksheet appears in the U.S. Constitution. Based on the class discussion, they are to pick out which -- by previously agreed definition -- are rights that the Constitution would guarantee to all people and which the government will never take away.

5. After completing the worksheet, go over the items and discuss what constitutes a right. From this students may be able to remember other rights they know, or you may wish to close by having each student (or group of students) tell or write a right they think all people should have.

DAY 2: Exercising Your Rights

Materials
For this lesson, each group of students needs a copy (original or simplified) of the Bill of Rights. The teacher needs to have a cut up copy of the "**Exercising Your Rights**" worksheet containing directions for the pantomimes.

Vocabulary
Pantomime

Procedure
1. Students are divided into groups of three. Each group is given one set of directions from the "**Exercising Your Rights**" worksheet. After reading their directions, each group needs to decide how it will demonstrate its amendment. The teacher will need to make a private check with each group.

2. Groups decide which students will perform which role. Groups may embellish but may not change directions. Groups always need to be reminded that pantomimes are silent. Not even sound effects are allowed. Use of props is up to the teacher.

3. There are different ways to proceed from here. If you are a brave soul and noise does not bother you, groups may just guess after each pantomime is performed. If you like more structure and wish to maintain the silence of the pantomimes, then each group will write its answer after the pantomime has taken place. After all are done, discuss each pantomime as each group gives a replay.

4. Close with a discussion of which amendments or parts of amendments were difficult to pantomime. As groups share, students from other groups may have ideas as to how this could be shown. You may also wish to discuss why certain rights are hard to pantomime -- abstract versus concrete.

5. If students do a good job, they could, with a little embellishment, be put together with narration to make a play that you may wish to perform for parents or other classes.

NOTE: Amendments Nine and Ten are not included in the "**Exercising Your Rights**" worksheet. Maybe you can figure a way to pantomime them.

DAY 3: Living with the Bill of Rights

Materials
For this lesson, each group of students need a copy (original or simplified) of the Bill of Rights and a copy of the worksheet "**Living with the Bill of Rights: Case Studies**".

Vocabulary
Case study

Procedure
1. Place students in small groups (triads work well).

2. One reason for teaching students about the Constitution and the Bill of Rights is that it is the job of each citizen to protect his/her rights saying, "It is not enough to know what is in the Bill of Rights, but we must know how these rights apply in our everyday lives. To do this we are going to use case studies. Case studies present us with real life situations. Although the ones presented are fiction, they are realistic fiction (the kind of things that happen to real people)."

3. Each group is to read each situation and decide which, if any, rights have been violated. In each case study, there may be no violations, just a person exercising his/her rights. There may be a violation of a single right or more than one right. Groups will need to be detectives and lawyers as they investigate each case study.

4. After giving students time to read the case studies and make their decisions, discuss each one. Groups will probably have differences in their judgments. This will make it even more like real life.

5. Close with a discussion of some rights students exercise in everyday life and have them give examples. Depending on time, ask them if they can think of times their rights have been violated.

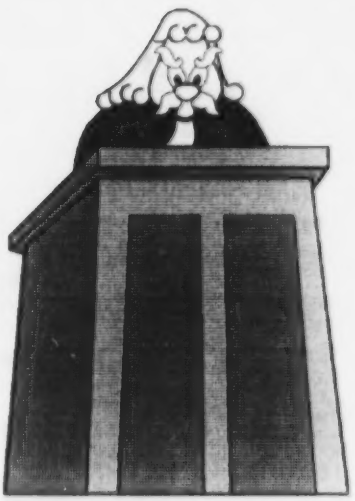
6. An extension of this activity would call for each group to pick one amendment and write its own case study to share with the class. (These may provide you with ideas to increase your own bank of case studies.)

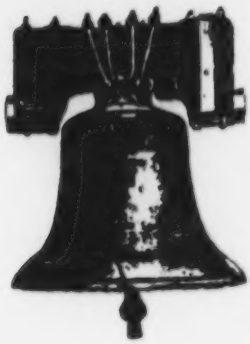
EVALUATION
Since these lessons include class discussion, guided practice, and cooperative group work, the major tool of evaluation is teacher observation. When students are working in groups, charting is helpful to see if all are participating in the group and adding to its success. The product of Day 2, the pantomime, should be judged mostly on effort and if all members of the group are involved. Depending on the class, teachers may want to put together a formal quiz or test including a description of some of the most basic rights to be matched with descriptions of their being exercised or violated.

CLOSURE
Closure is included in each day's procedural directions. For day 1, see paragraph 5. For day 2, see paragraph 4. For day 3, see paragraph 5.

TIPS FOR TEACHERS
None specifically are included because the directions were written as carefully as possible and edited after field testing. However, steps 5 and 6 on day 2, and step 6 on day 3 may be considered.

BIBLIOGRAPHY
Constitution of the United States of America





Is It a Right?

Directions: Now that we have discussed what a **right** is, read each sentence below and place a + in front of each one that describes a right. (WARNING: Each sentence contains true information contained in the U.S. Constitution.)

_____ 1. No person's house or property may be searched without a search warrant.

_____ 2. Each state gets two senators.

_____ 3. Persons accused of a crime shall be represented by an attorney.

_____ 4. Persons may worship as they please.

_____ 5. To be President, a person must be 35 years old.

_____ 6. Citizens may own and keep guns.

_____ 7. A person may not be forced to testify against him/herself.

_____ 8. The judicial branch of government is made up of the Supreme Court and other courts created by Congress.

_____ 9. In a trial, the accused person has the right to see and hear the witnesses who testify against him/her.

_____ 10. Citizens may petition or ask the government to correct wrongs done against them.

_____ 11. Citizens may speak out and freely express their opinions on subjects.

_____ 12. The executive branch of government is headed by the President.

_____ 13. A person must be 25 years old to serve in the U.S. House of Representatives.

_____ 14. Persons accused of crimes are entitled to trial by jury.

_____ 15. The President takes office at noon on January 20th.

Exercising Your Rights

Your group is going to demonstrate the freedom of religion from the First Amendment. Be sure each person in your group has a role to play. It would be best if you could show that your characters have different ways of worshipping.	Your group will be demonstrating the right to privacy from the Fourth Amendment. Think about how you can show that the government may not search a person, his house, papers, or other belongings without a search warrant. Be sure each person in your group has a role.
Your group is going to show freedom of the press from the First Amendment. Think about how to show that newspapers, books, and magazines may print any ideas they see fit. Be sure each person in your group has a role.	Your group is going to demonstrate the right a person has not to testify against him/herself from the Fifth Amendment. This one is tough. Think how you can do this without talking. Be sure that each person in your group has a role.
Your group is going to demonstrate freedom of assembly from the First Amendment. Think how you can show that people have the right to gather together in groups peacefully. Be sure each person in your group has a role.	You will be demonstrating the right of a person accused of a crime from Amendment Six. The rights included here are the right to be represented by a lawyer and the right to have witnesses to testify on behalf of the accused person. Be sure all persons in your group have a role.
Your group is going to demonstrate the right to petition the government from the First Amendment. Think about how you can show that people have the right to ask the government to take some action. Be sure each person in your group has a role.	You will be demonstrating the right to a trial by jury in civil cases from the Seventh Amendment. It will be tough with a small group, but you must get the idea of a jury across. Be sure all persons in your group have a role.
Your group is going to demonstrate the right to bear arms from the Second Amendment. Think about how you can show that people have the right to keep and own guns. Be sure each person in your group has a role.	Your group will be demonstrating that bails and fines may not be excessive and that cruel and unusual punishments are forbidden by the Eighth Amendment. This means that the punishment must fit the crime. Think how you can demonstrate this. Be sure all persons in your group have a role to play.
You will be demonstrating that the government does not have the right to quarter soldiers in the home of citizens during peacetime from the Third Amendment. Be sure each person in your group has a role.	

Living with the Bill of Rights:
Case Studies (2 pages)

Stephen and his friends agree to meet on the corner of Main and Wood Streets so they can walk together to the football game. When John arrives, he explains that Jeff will be late because his family had an emergency. While the youths are waiting, a police car drives by, twice, then stops. The policeman asks the friends to "break it up" and "move along."	K.C. has spray painted what she and her family believe is a beautiful mural on the wall of her parents' garage. The neighbors do not like it and think it makes the neighborhood look bad. When some graffiti is mysteriously spray-painted on a neighbor's fence, K.C. is accused. Although she knows she did not do it, she is told, "We have witnesses who saw you do it." When she asks who the witnesses are, she is told, "It's none of your business."
When the school board is scheduled to debate whether or not to lengthen the school day, Sarah and her friends are upset. They fear that they will not be able to keep up with other interests such as sports and dance if the school day is made longer. They make signs and picket on the sidewalk in front of the school administration building. As the school board members enter the building, one of them tells the students they should not be there and must leave.	After a destructive flood in Watertown, Illinois, the governor sent in the National Guard to help rescue people, restore order, and prevent looting. The problem is that the rains continue, and there is no place for the soldiers to sleep. The leader of the group tells the city council that the soldiers must be placed in the homes of Watertown's families.
Zach has just finished instruction to become a member of his church. He is very enthusiastic about it and feels that if each school day began with a prayer, the day would go better for everyone. At a regularly scheduled meeting of the school board, he presents his plan for "Morning Prayer" and asks the school board to implement it.	After the *Presstown Truth* prints a lengthy column criticizing the governor, he responds by coming to Presstown and giving a major speech asking for a new law to give the government control over what newspapers print.

Kevin is home watching television when there is a knock on the door. When he answers it, he finds two men dressed in street clothes on his porch. The men tell him they are policemen, and they are looking for television sets that were stolen from a nearby store. They tell Kevin they wish to look through his house for the stolen television sets.	Julie and her friend shoplifted some gum from the drugstore. It was their first time, but they were caught by the store owner who was very angry. As they sat in his office and listened to him call the police, they overheard him say, "These girls need to be put away for a long time, so they can't do this to anyone else. Make sure the judge throws the book at them!"
Zeb and Sally, two fifteen-year-olds, are accused of robbing a convenience store. Although there seems to be a lot of evidence against them, they are innocent. When the store was robbed, Zeb and Sally were with their friends out by the lake drinking. Because all their friends are under age, they will not voluntarily come forward and testify for Zeb and Sally.	

The Bill of Rights

(The first ten amendments to the U.S. Constitution were ratified effective December 15, 1791.)

AMENDMENT I.

Congress shall make no law respecting an establishment of religion, prohibiting the free exercise thereof, or abridging the freedom of speech, or of the press, or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

AMENDMENT II.

A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed.

AMENDMENT III.

No Soldier, in time of peace be quartered in any house, without the consent of the Owner, nor in time of war, but in a manner to be prescribed by law.

AMENDMENT IV.

The right of the people to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the places to be searched, and the persons or things to be seized.

AMENDMENT V.

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in Militia, when in actual services in time of War or public danger; nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

AMENDMENT VI.

In all criminal prosecutions, the accused shall enjoy the right to a speedy trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defense.

AMENDMENT VII.

In Suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury, shall be otherwise re-examined in any Court of the United States, than according to the rules of the common laws.

AMENDMENT VIII.

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

AMENDMENT IX.

The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people.

AMENDMENT X.

The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

Peter's Debatable Dilemma

Sue Ann Chun
Wheeler Intermediate School
Wahiawa, Hawaii

ABSTRACT
This lesson uses the novel *Night Journeys* by Avi to explore law-related issues and concepts of justice and freedom. The book should be assigned during a unit on life in Colonial America and only after the students have learned about "Quakers" and "indentured servants." The book's setting is colonial Pennsylvania in 1767. Peter York, a 12-year old orphan, is sent to live with Everett Shinn, a highly respected Quaker and Justice of the Peace. Because of his public responsibility, Mr. Shinn has been called upon to help capture two runaway indentured servants. Peter enthusiastically joins in the search until he discovers that the runaways, English felons who were sent to America in servitude, are a boy and a girl his own age. Peter's conflict with Mr. Shinn, who is bound to uphold the law, becomes entwined with the indentured servants' search for freedom.

The learning activities involve both individual and group activities. The students keep a reading log in which they express their thoughts and questions regarding the story's plot. After the reading, they engage in team and then whole class discussions asking and answering higher order questions. They choose from a writing, speaking, and art activity to express their views on one of the debatable issues presented in the story.

OBJECTIVES
As a result of this lesson, the students will:
- Identify two law-related concepts that were the over-all themes in *Night Journeys*.
- Formulate questions that identify the basic issues of the themes in the story.
- Take a stand on one of the issues addressed in the novel and present this stand in an essay, a cartoon, or a speech.

SUBJECT/GRADE LEVEL
Language Arts/Social Studies (integrated); Grades 6-8

TIME REQUIRED
One week for the reading of the novel (in class or outside of class); three 50-minute class periods for the lesson.

MATERIALS NEEDED
One class set of the novel *Night Journeys* by Avi. If the book is not available, a detailed summary of the story is provided with this lesson.

PROCEDURE
1. The students will participate in a class value line. (This structure is taken from Spencer Kagan's *Cooperative Learning*)

- The teacher will state the following issue, "It is morally right to break a law if the law is unjust."
- The students will mark a value line on their own slip of paper.
- When all have marked their lines, they will take a stand on an imaginary line which stretches from one side of the classroom to the other. They will stand in the spot along the line which corresponds to where they have marked their own value line.
- Students will then pair up with a person on either side of them in the line and discuss why they took the stand they did.
- The line will then be "folded". Students on the agree end will walk to the disagree end to find a new partner with an opposing position. Students will again discuss why they took the stand they did, and each will paraphrase what the other has said.

2. The teacher will tell the class that they will be reading a novel, *Night Journeys*, about a boy in colonial America who had to ponder similar questions about breaking the law.

3. The teacher will read the first 12 pages orally with the class. Stop at various points in the reading to review the following geographic locations as they are mentioned:

Geographic locations:

Pennsylvania, New Jersey, Delaware River, Trenton, and Easton.

4. The teacher should also review the following terms:

Quakers, indentured servant, bondsmen, malefactor, felon, and justice of the peace.

5. After reading the summary, tell the class that they will read the rest of the book for homework during the next week. While they are reading, they are to think about the dilemma that Peter finds himself in and the important decisions that he must make regarding his conflict. After each night's reading, they will record in their reading log/journal reactions to their reading which must also include at least one question for which the student does not have an immediate and clear answer. These questions will be processed later in a group discussion.

6. When the students are finished reading the book, the teacher will review the facts in the story. This includes what has happened and who is involved. The students will work in teams and use Kagan's cooperative learning structure called "roundtable." Students will make a list of their responses on a piece of paper; each student will contribute one answer and pass the paper to the student on his or her left.

7. The teams will each share a fact which the teacher will write on the board. From these facts the teacher will facilitate the formation of a composite picture of the "facts of the case."

8. After the facts have been established, the teacher will ask the students to look over the entries in their reading logs/journals and then formulate in their small groups the issues involved in the story. Encourage them to look not only at Peter's dilemma, but also at the circumstances or laws that possibly led to this conflict.

9. Have each group share their issues with the class. The teacher will write these on the board. The following issues should be identified:

- Was it just for the English courts to impose punishment such as imprisonment and indentured servitude in America to young children who stole because they were poor and hungry and therefore stole as a means to survive?
- Were the children justified in running away as a means to seek their freedom?
- Were Peter's moral convictions regarding freedom and justice paramount to the law? (In other words, were Peter's behavior and actions right?)

10. When these issues have been identified, the students will select one of the issues and express their own personal ideas on the issue by writing an essay, creating a cartoon, or delivering an oratory. Set a deadline for these creations. These will be shared and discussed with the class.

11. After the students have shared the personal beliefs on the issues, the teacher will end the lesson by doing the following:

- Have the students participate in a class value line using the same procedure and value issue in step one of the procedure. The students will not fold the value line but will discuss in pairs why they took the stand they did, and if the stand is different from their previous stand on the issue, they will explain why they changed their opinions. Students will be asked to share their responses with the class.

- For more personal meaning, have the students write in their reading log/journal a response to one of the following topics:

  a. What lesson did you learn from the reading of and other activities done with *Night Journeys*?

  b. Does the decision that Peter had to make remind you of an actual personal experience that you have had? If so, briefly describe the dilemma, your decision, and how you arrived at that decision.

EVALUATION

To insure that the students are keeping up with their reading and also seriously thinking about what they are reading, they are required to write entries in their reading log/journal.

The students also present their ideas on an issue in a paper, a cartoon, or an oratory on one of the three issues identified in the story.

The final value line activity gives the students the opportunity to make a choice based on the learning experiences of the lesson.

The last reading log/journal entry will tell the teacher what the students gained from participating in the activities of the lesson as well as relating the theme of the lesson to the students' personal experiences.

DEBRIEFING
This is done as part of the last steps in the procedures.

TIPS FOR THE TEACHER
I have found that students generally enjoy reading novels about characters their own age and about content that relate to the classroom curriculum. It awakens an interest in literature as well as broadens their perspectives. The teacher, however, must help the students to step away from the action and characters of the story to identify and address the issues in the story. Discussions on the issues should take place first in small groups which are generally more supportive and active and encourage all team members to contribute their ideas. The teams can then share their responses with the whole class.

Since the book's setting is during a particular historical context and time (colonial Pennsylvania), it is important that the reading is assigned only after the students have sufficient background in life in colonial America and in the types of people who came to America from England. Also, any words that the teacher feels may be unfamiliar to the students should be explained prior to the reading.

The teacher should check the reading logs/journals daily to make sure that the students are writing and thinking about their reading.

Also, the students should be given a choice as to the medium they want to use to present their ideas to the teacher and to the class. In this particular lesson students may choose to do a written, oral, or art activity. The students may also suggest other activities.

There are many good books and short stories with law-related content. In fact, a good book to team with *Night Journeys* is *Huckleberry Finn*. Huck faces a similar dilemma when he is asked to help Jim, a slave, escape to freedom. It is important to select those with law-related themes that are timeless and those that relate to events and decisions in our students' lives. Literature serves as a bridge that allows students to vicariously experience a historical event or time period and to analyze an event.

This lesson can be done by a social studies teacher alone, but it is better to engage both a social studies and a language arts teacher. One suggestion is to have the language arts teacher focus on one book such as *Huckleberry Finn* and the social studies teacher focus on a book such as *Night Journeys*. The students could then contrast the conflict, solutions, and characters in both books. Using literature such as *Night Journeys*, the two teachers can make connections between their subjects in terms of knowledge, skills, and attitudes. These connections are powerful and can only foster greater student understanding.

BIBLIOGRAPHY

- Anderson, Charlotte, etal., editors, *Law Related Education* (pamphlet), Washington, D.C.: National Council for the Social Studies: 1980.
- Avi, *Night Journeys*, New York: Pantheon Books: 1979.

* This book is no longer in print, but most public libraries have copies of the book.

NIGHT JOURNEYS
By Avi
(A Detailed Summary)

This is the story of twelve-year-old Peter York and the great crisis in his life.

In the fall of 1767, Peter's family died of a fever. Peter now had nothing that he could call his own except his mare, Jumper. Mr. Everett Shinn agreed to take him in. Mr. Shinn was a Justice of the Peace and leader of a Quaker community near Philadelphia in the Commonwealth of Pennsylvania and across the river north of Trenton in the Jersey Colony. Peter promised to work hard, and Mr. Shinn promised to treat him well.

Peter's crisis really began in the spring of 1768, six months after he moved in with the Shinn's. When Peter returned from a successful afternoon of squirrel shooting, he found that Mr. Shinn had sent one of his young children on an errand with Peter's horse Jumper. This upset Peter greatly because he considered Jumper as the sole token of his previous life. Mr. Shinn, however, denied Peter's sole ownership and reminded him that he and the horse were now a part of the Shinn family, and it would be that way until they could buy their own horse which would cost at least ten pounds.

Later that evening a disturbed Peter was still awake when he heard an urgent thumping on the front door. When Peter looked out through the small loft window, he saw men in saddles holding rifles. The man who had knocked at the door was Mr. Shinn's oath-taker. He administered legal oaths to people because Mr. Shinn's religion kept him from doing so. He had come to report that a Mr. John Tolivar from Trenton had told them about his two escaped bondsmen who, he believed, had crossed the river near the Shinn's property. As Justice of the Peace, Mr. Shinn was obliged to know and render all assistance in such a case.

Bondsmen were men and women and even children who had been brought from England under contract for their labor. Some were apprentices while others were indentured servants or transported felons who were obliged to work for periods of time by those who owned their labor, after which time, if they still lived, were set free. Often they would attempt to free themselves by crossing the Delaware River. If they were caught and returned to their rightful masters, those who caught them would get a good reward, for bondsmen were of great value. In this particular case, the runaways were transported felons, and the reward was twelve pounds.

Peter was very excited about the reward and wanted to go on the "hunt." The reward money could be used to buy a horse for the Shinn's. Mr. Shinn, however, joined the search party only because of his obligation as Justice of the Peace. He agreed to let Peter and Jumper join the party with himself and three others.

The party of five traveled on a muddy road parallel to the river. They stopped at a place called Dewer's Landing where they made their plans. They had agreed that they would take a post at the four good fording places: Bull's Island, Morgan's Rock, Old Orchard, and Dewer's Landing. They would keep their rifles ready and send a signal if

they spied the runaways. Because Morgan's Rock was the least likely fording spot at this time of year, Mr. Shinn and Peter were assigned that location.

Morgan's Rock was a narrow island that was known as a good place to ford the river but only when the river was low during the summer, not in late winter. It was open and easy to cross near the middle where the sand and trees comingled. It was there that Peter and Mr. Shinn were to take their watch and discuss the men who had run away.

"He called them felons," Peter persisted, his mind filled with lurid images of cutpurses, scamps, and rogues.

"Aye. Transported here from England as an act of the King's mercy."

"Is it not a mercy then?" Peter asked.

"Branded on the thumb," Shinn said slowly, "they choose between the gallows and America, owing men like this Tolivar many years of labor. It's hard to know if that's a choice."

"They should be thankful they're alive and not try to escape," Peter suggested.

"People prefer their freedom," Mr. Shinn returned.

"Even against the law?" challenged Peter.

"The law's a chain that keeps all as one," said Mr. Shinn.

[End here for first reading]

Upon the urging of Mr. Shinn, Peter alone explored Morgan's Rock. While sitting upon a stone on the island, he saw a white flash on the Jersey shore of the river directly opposite where he sat. Having seen the flash several times, he knew that someone was there. Just as he was about to run back to where Mr. Shinn waited, he heard a gunshot, not from where Mr. Shinn was but from farther south.

Peter and Mr. Shinn quickly crossed the river in the direction of the gunshot. When they reached the opposite shore and mounted Jumper who was waiting for them there, Mr. Shinn remembered that they did not have the rifle. Poor Peter! He was sent back to fetch the rifle.

Peter had a difficult time getting back to Morgan's Rock by himself. He remained very close to the Jersey shore and saw the white flash several times. He moved inland very cautiously on hands and knees to investigate. To his great relief, the white flash belonged to a girl, perhaps eleven years old and dressed in a torn skirt that was far too big for her. She too was trying to get across the river to Morgan's Rock. She

introduced herself as Betsy Williams, a servant girl who was trying to get to the Pennsylvania side of the river to her hometown to help her mother take care of her ill father. Peter believed her story but was a bit puzzled by her suspicious tone and behavior.

Together they struggled to get across to the island. When they safely reached Morgan's Rock, Betsy sat on a tree, hung her head limply and closed her eyes. It was when she was asleep that Peter saw the brand on her thumb. The brand was M-shaped, reddish brown, unmistakably a burn, clearly placed, and clearly meant to be seen. The M stood for malefactor. It meant that she was a felon, one of those for whom Peter had hunted.

For a while Peter could only think about who she was and what she had been. He saw her only as the runaway he and the others had sought, the felon they had looked for, and the felon that he alone had caught. The more he thought of it, the more it pleased him and the more he knew what he wanted to do -- to pretend to have noticed nothing and find a way to get her to return home with him.

Peter let Betsy rest while he went inland to get the rifle. However, when he returned, he found her gone. He had searched about one-fourth of the island before Betsy sprang out behind him and plunged into the channel in an attempt to reach the mainland. Because she didn't listen to Peter's command to stop, he pulled the trigger of his rifle, and Betsy spun around and then collapsed into the water as if dead. Peter stood motionless and horrified, for he was certain that he had killed her. He flung the gun away and never saw it again. Betsy was bleeding badly and made no resistance when Peter dragged her back toward the island. He found that the bullet had cut her arm and quickly tore his shirt to use to bind her wound. He pleaded forgiveness and insisted that he take her home with him. Just as he was pleading with her, he heard his name. Mr. Shinn had come back to the island to find him.

The sound of Mr. Shinn's voice transformed both of them, but Peter was able to make up his mind that he would never tell Mr. Shinn or the others about Betsy. He told her to stay where she was and that he would come back with food. "Believe me, I won't tell them. I'll help you get away," he promised.

When Mr. Shinn saw Peter's appearance, he was shocked and demanded to know what had happened. Peter quickly told him a believable story. On their way back home, Peter learned that the other felon, a young boy, had been captured. At home Peter was told about how the prisoner got across the river and how he eventually got caught. Peter was also taken to see the prisoner who was being held in a shed in the Shinn's backyard. As he had feared, Peter saw that the boy named Robert was even younger than the girl, no more than ten years of age. He, too, was dirty and shoeless and wore ill-made clothing. Unlike the girl, however, he did not have a brand on him. Peter was disturbed when Mr. Shinn told him that word had been sent to Trenton informing the owner that one of the felons had been captured. Mr. Shinn explained that Robert had to be returned because of the law, and that as Justice of the Peace he was bound to uphold all laws.

That evening Peter, although very tired, had difficulty sleeping thinking about the dilemma he faced. He reminded himself of the promise he had made to the girl. The question of the other prisoner made its way into his mind also. He thought, "How can I free the girl and not the boy? And if I freed him as well, would I not be twice at fault, twice in blame? And what would be the consequence?" More than once he wanted to get up and lay the truth before Mr. Shinn, but he was too fearful of what Mr. Shinn would do; after all, Mr. Shinn did tell him that he must uphold the law.

The next morning Peter walked and then waded across the channel to Morgan's Rock with some bread and cheese for Betsy. Now that Betsy was able to trust Peter, she related her story to him.

"Why did you run away?"

"I wanted to be free."

"You would have been free in time. It can only be worse for you if you're caught. Why were you branded?"

"I was a thief. I stole a ring from a lady in England because a man said he would feed me if I did. I was caught taking the ring and placed in prison where I pleaded mercy. That way I gained the King's pardon on promise of transportation. I was then sold to a merchant who brings felons to the colonies. I was sold for my labor until I become twenty-one years of age."

"You ran away with someone, didn't you?"

"Have they caught my friend?" she blurted out. "If so, please tell him I'm here. He's not a thief, as I was. I stole the ring from a jeweler to whom he was apprenticed. He took pity on me and tried to help. We were both put in prison and transported to the colonies. It was very bad in Trenton. He swore he'd run away. I begged him to let me go with him. Do you still mean to help me get free? Could you let him go free as well?"

Peter did not answer her questions, but he promised that he would come back with more food.

When Peter returned home, he quickly went to the shed and talked to the boy through a crack in the wood. He told Robert that Betsy was safe and that he would help her get free. Of course, Robert wanted to know if Peter was going to help him get free, too. Peter just answered by saying, "If you're willing." He told Robert that he would find a way soon.

Peter could not help feel that Mr. Shinn knew what was going on. In fact, he was asked to join a search party for the other missing felon. Peter believed that because

Mr. Shinn did not know the particulars, sending Peter with the search party was his way of trying to force him to speak. Peter was now more resolved than ever to remain silent and continue with his plan. He thought about being cast out of the Shinn house and being arrested if his aid to the felons had been discovered. The more he thought about it, the more he was determined not to allow this to happen. He would leave before Mr. Shinn could act, and he would flee with the felons to Easton.

Peter did not join the search party after all. He was told to work in the field all day. Before he went to the field, however, he managed to take some food to Betsy and to tell her that he and Robert would come to her that night to continue the escape.

That afternoon when he returned from the fields, he noticed that Mr. Shinn had returned and had learned that the felon was still not caught and that another party would be out in the evening searching for her near Morgan's Rock. During the brief conversation Mr. Shinn also told Peter that he was not sorry the girl left her master and that he would ask Mr. Tolivar to set the boy free. Peter could not believe that he was hearing Mr. Shinn talk of persuading the master to free the boy, while he himself held him prisoner in his shed.

When Peter was sure that the Shinns had gone to bed that night, he went to the shed to get Robert. Before leaving the property, he said good-bye to Jumper whom he had to leave behind. Robert and Peter moved slowly and quietly to the shore and waded and swam to Morgan's Rock. They found Betsy hiding safely and told her about their plan to move on to Easton. Their safety, however, ended when they were ordered to stand by a member of the search party. Together the frightened trio ran through the water along the shore's edge before heading inland to seek the protection of the bushes and trees. When they knew they were safe, they proceeded to find River Road. While continuing on the road, they heard the sound of a horse. Peter then told the two runaways to take themselves off the road and wait for him while he went forward to reconnoiter. As Peter walked up the road, he saw the silhouette of a horse by a tree in an open field. There was something about the horse that arrested his attention. The moment he recognized the horse as his Jumper, he spun around and heard Mr. Shinn calling him.

Mr. Shinn questioned Peter about the two runaways reminding him that the law said, "Thee are equally guilty if thee help a bondsman escape." Peter refused to show him where Betsy and Robert were because he was afraid that they would be returned to their master. At that point Mr. Shinn knew that Peter was also planning to leave with two felons. Several times he said to Peter, "I am not holding thee." When Peter finally realized what Mr. Shinn was saying, he started to walk past him, but Mr. Shinn held him back and told him that he had forgotten Jumper. Peter and Jumper then trotted down the road to where the two were waiting. With the three passengers on her, Jumper threw herself into a gallop down the road toward Easton. All three now had their freedom, but Peter knew that he really did not want his.

When Peter knew without a doubt that they were safe, he slipped down from Jumper and told them that the horse was theirs. Peter bid them a brief farewell and headed for home, a long way off. He was fearful of what would happen to him, and as it turned out, was very surprised at what actually happened.

"Peter York," Mr. Shinn began, "thee has spoken and acted for me when I -- when I as your elder should have so done. Thee were right and I was wrong. I did not have the strength thee had." He bowed his head. "I needed thee -- who art no more than a boy -- to act for me. I, Everett Shinn, thank thee humbly."

Modified Lincoln-Douglas Debate on the Death Penalty

Deborah Escobar
Framsworth Middle School
Schenectady, New York

ABSTRACT/INTRODUCTION

The ability to listen to both sides of an issue and then present an opinion verbally within a formal structure is essential to good citizenship. This lesson endeavors to teach students research and presentation skills within a modified Lincoln-Douglas debate structure on the topic of capital punishment.

GOALS/OBJECTIVES

As a result of this lesson, students will:

- Be able to take notes on the issue of death penalty, using several sources.
- Work cooperatively on teams to research and prepare speeches.
- Be able to give a verbal presentation using established debate techniques.
- Understand that a democracy requires public forums to air both sides of an issue.

SUBJECT/GRADE LEVEL/AUDIENCE

Grades 6-8; Social Studies or Language Arts

TIME REQUIRED

Five 45-minute class periods

MATERIALS NEEDED

The following resources for student research (all have been checked for appropriateness for age and grade level):

- "Death Penalty Debated," *News For You*, 13 May 1992 Vol. 40 Issue 19, p. 3
- "Death Penalty: Is It Right?," *Current Events*, 4 Oct 1991, Vol. 91 Issue 4, p. A
- "Executions Don't Deter Murderers," *USA Today*. Apr 1992 Vol. 120 Issue 2563, p. 12
- Nard, Don. *Death Penalty*. San Diego: Lucent Books, Inc., 1992
- O'Sullivan, Carol. *Death Penalty: Identifying Propaganda Techniques. Opposing Junior Viewpoints*. San Diego: Greenhaven Press, Inc., 1989.
- "Race and the Death Penalty," *Time*, 29 April, 1991, p. 68.

Also index cards.

PROCEDURE

First day

Students are taught the format of modified Lincoln-Douglas Debate.

Ahead of time, divide the class into eight small teams of three-four members each. Four of the teams will debate the affirmative side of the resolution and four will debate the negative side. Student teams will be assigned a side of the issue (lottery works best) and a role in the debate: first speech, second speech, cross-exam, rebuttal.

Explain the following: Debate topics are formed into a resolution, stating one side of the issue.

> *Resolved: The death penalty is cruel and inhuman punishment and should be abolished.*

The negative side argues AGAINST the resolution; the affirmative team argues FOR it.

The debate procedure is as follows. Place on a transparency and show students as you explain.

1st affirmative speech: 2 minutes
1 minute for cross-exam team to confer
Cross-examination by negative team: 2 minutes

1st negative speech: 2 minutes
1 minute for cross-exam team to confer
Cross-examination by affirmative team: 2 minutes

2nd affirmative speech: 2 minutes
1 minute for cross-exam team to confer
Cross-examination by negative team: 2 minutes

2nd negative speech: 2 minutes
1 minute for cross-exam team to confer
Cross-examination by affirmative team: 2 minutes

Affirmative rebuttal: 2 minutes

Negative rebuttal: 2 minutes

Explain the roles within the debate:

Affirmative speeches
It is up to the speakers to build a case that supports the resolution. Providing definitions of key terms in the resolution and presenting facts and logical arguments are important strategies. Arguments are proved through facts, expert opinion, and reasoning. Example:

> "Many experts believe that the death penalty is not fair because it is not distributed equally. If you are black you have a greater chance of being executed than if you are white."

Cross-Examinations
Cross-exam must always be in the form of QUESTIONS ONLY. Three common tactics of cross examination involve:

Gaining information by asking pointed questions instead of open-ended questions. Example:

Q: How many Americans have been wrongfully executed?
A: One study said that 23 innocent people have been executed.
Q: And exactly what period of time did that study cover?
A: 1900-1985.
Q: Only 23 people in 85 years?
A: Yes.

Clarifying the opponent's arguments by asking for definitions. Example:

Q: You state that execution is usually cruel. Could you define your definition of cruelty?

Demonstrating mistakes in the opponent's reasoning. Example:

Q: Would you not say that life in prison without parole is also cruel?

Negative Speech
It is the job of the negative to present the opposing argument while attacking the affirmative argument. A good tactic is to find some room for agreement with the opposing side, while going on to clarify your own value. This is the basis of a persuasive argument.

Rebuttal
Rebuttal answers negative attacks on affirmative positions, or vice versa, while summarizing the overall position of the team. They must go back, re-support, and extend arguments presented; however, they may *NOT* introduce new evidence.

Allow students to debate a topic that is easily pulled together -- for example, dogs make better pets than cats; or tub baths are better than showers. Going through a "practice" debate of this type allows students to become familiar with the format. Instead of two-minute speeches, however, limit them to one minute.

Second and Third Days
Introduce the topic of capital punishment, allowing students some input in class discussion on the topic for the first ten minutes of class.

Give students Handout 1, and go over the guidelines for taking notes.

Give students access to resources and let them begin taking notes on their side of the issue. This will continue for the third day. Explain that you will check their note cards during class the next day.

Fourth day
Students will work in their small groups to begin writing speeches and possible cross-examination questions. Explain that speeches must have opening and closing statements, be persuasive, and be delivered with best public speaking skills. One student on the team may be chosen to deliver the speech, or students may opt to divide the speech up among the members.

Fifth day
The debate is conducted during this class period. See Handout 2 for an example of judging strategy.

Handout 1

Note-Taking Guidelines

1. Write your notes as if you were writing them for someone else.

2. Record enough information so that its meaning will be clear later. Assume your source will not be available to you again.

3. Record only ONE item on each card.

4. Use a consistent form that includes bibliographic information. Your future success as a debater depends on the quality of the information you record. You will need to be accurate enough to allow you to build your case and cite expert opinion. You may also need to refer to facts during cross-examination, so it is important to organize the cards by recording the topic at the top.

Sample Card

Execution as a deterrent

Nard, Death Penalty, p. 25

Norman Darwick of the International Association of Chiefs of Police gave a speech before the US Senate in 1981, stating that capital punishment helps to "reinforce against killing" and save a "greater number of innocent lives".

DEBATE SCORES

41555

AFFIRMATIVE TEAM	1ST	ANS (1)	CROSS (1)	2ND	ANS (2)	CROSS (2)	REBUT	TOTAL
USING FACTS (5 POINTS)								
LOGIC & REASONING (5 POINTS)								
PRESENTATION/ DELIVERY/ PERSUASIVENESS (5 POINTS)								
NEGATIVE TEAM	CROSS (1)	1ST	ANS (1)	CROSS (2)	2ND	ANS (2)	REBUT	TOTAL
USING FACTS (5 POINTS)								
LOGIC & REASONING (5 POINTS)								
PRESENTATION/ DELIVERY/ PERSUASIVENESS (5 POINTS)								

Gavel
A Citizenship Game

Judy R. Nugent
Highlands County School Board
Sebring, Florida

ABSTRACT
This game is recommended for use with a program of study for citizenship, branches of government, and law. Its purpose is to reinforce basic knowledge of citizenship and the consequences of breaking laws in a fun way.

AUDIENCE
Fourth grade and up.

TIME TO COMPLETE
The game time can be adjusted to meet the classroom needs from 20-minutes to an hour. It can be played as either a team competition or a board game.

GOALS/OBJECTIVES

Students will:

- Enjoy the competition of a game strategy.
- Increase their knowledge of citizenship and the consequences of crime.
- Enhance their skills for transmitting information.
- Perform in a cooperative learning setting.

MATERIALS

Components:

- Game board, die, and player pieces
- Score sheet
- Marker such as pencil or pen
- Question cards

PROCEDURE

Team Competition Version
When played as a team competition, the players divide into two teams and one answer is given for the team. (If more teams participate, there would need to be a runoff match for the finalists.) The correct answers are given three points each. Teams can decide what score will be the final winning score before play begins. For example, the winning score will be 45. Scores can be kept on a score sheet.

How to Start
Teams may roll the die to choose first player, high roll wins the first play. Questions may be read by the opposing teams or a chosen emcee. When the question is read and answered correctly, the team takes the points. If answered incorrectly, the opposing team may answer the question. The game continues with the opposing team taking the next turn. Each question is worth 3 points.

Board Game Version
Players roll to decide first play. The points are decided by the roll of the die. The player rolls, the question is read by the previous player, if answered correctly the points of the die are taken and player moves across the board. If answered incorrectly, no points are given or taken away. Special bonus and penalty cards are included for this purpose. The first player to reach the finish point wins the game.

Evaluation
Success can be measured informally by the observation of the ability of the students to answer the questions given. Knowledge gained can be tested in a more formal manner.

Bibliography
Questions and Answers were adapted from *Law Education and Character Training* by Judge Clifton M. Kelly, Retired. 1982. Sebring Kiwanis Club, Sebring FL 33870.

GAVEL
A Citizenship Game
Ages 8 - Adult

This game is recommended to be used with a program of study for citizenship, branches of government, and law education. The purpose of this game is to reinforce basic knowledge of citizenship and the consequences of broken laws.

Components

- Game board (miniature supplied - enlarge as needed)
- Game die
- Player pieces (anything will suffice)
- Score sheet
- Marker such as pencil or pen
- Question cards (supplied)

This game can be played as a team competition or as a board game.

Team Competition Version

When played as a team competition, the players divide into two teams and one answer is given for the team. (If more teams participate, there would need to be a runoff match for the finalists.) The correct answers are given three points each. Teams can decide what score will be the final winning score before play begins. For example, the winning score will be 45. Scores can be kept on a score sheet.

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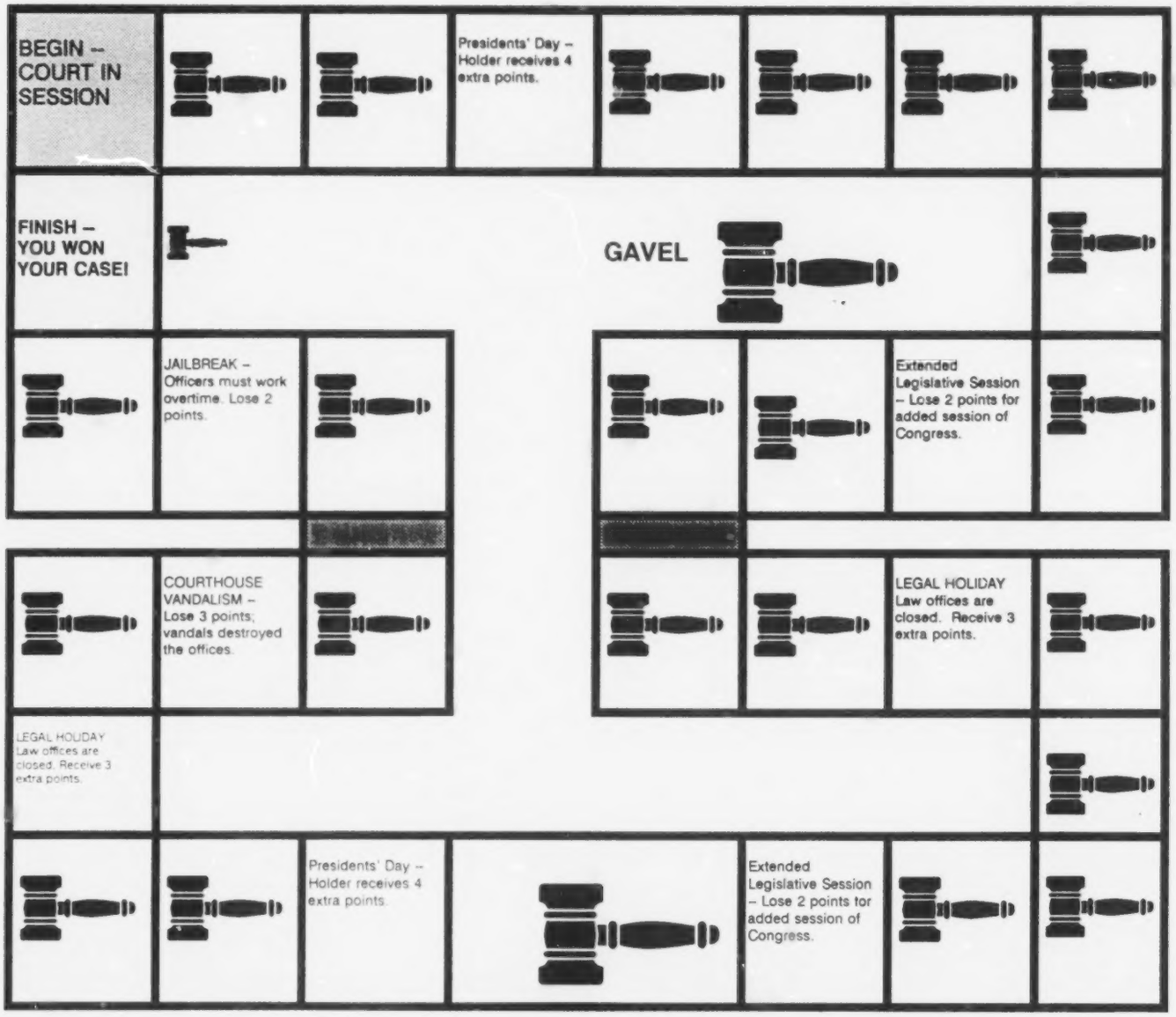
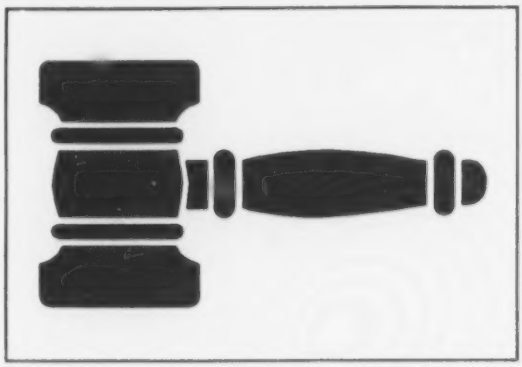
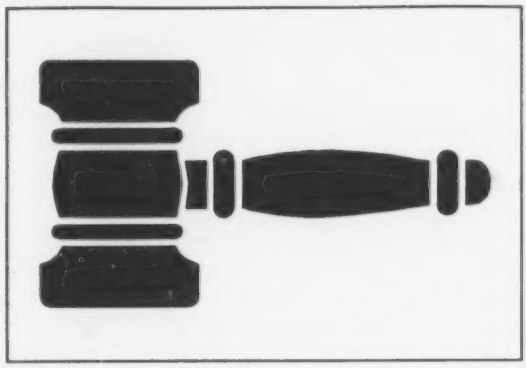
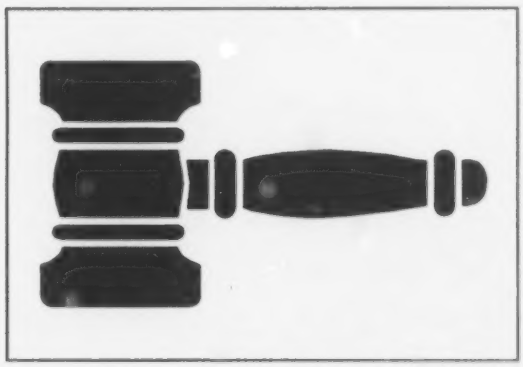
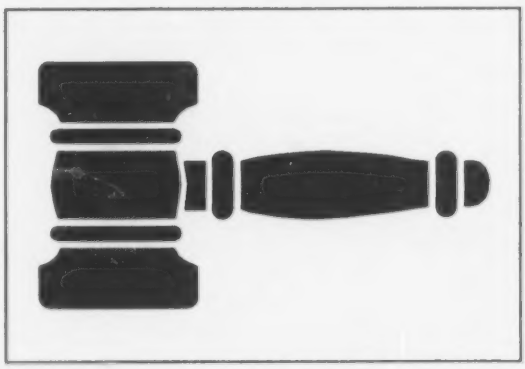
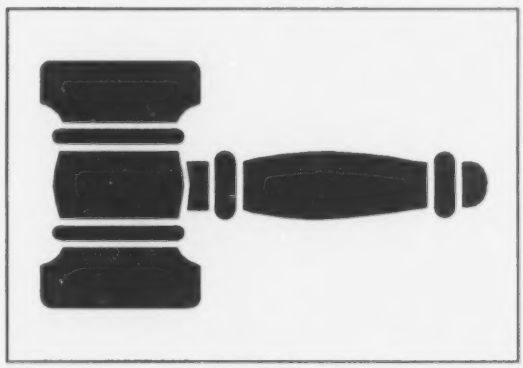
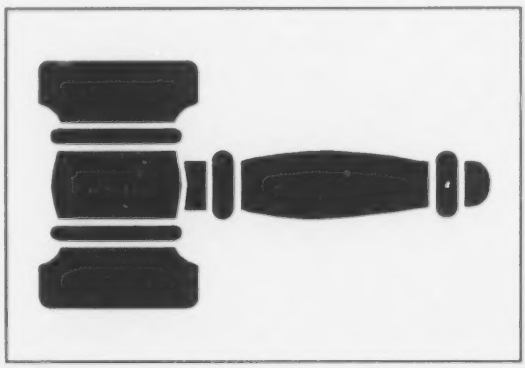
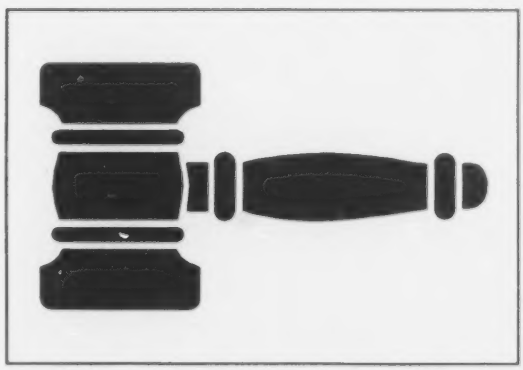
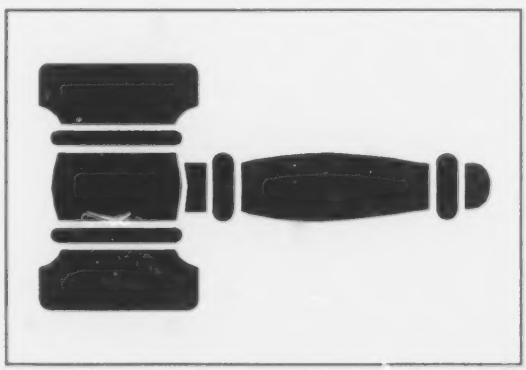
Resource Information: *Law Education and Character Training* by Judge Clifton M. Kelly, Retired.


BEGIN -- COURT IN SESSION
Presidents' Day -- Holder receives 4 extra points.
FINISH -- YOU WON YOUR CASE!
GAVEL
JAILBREAK -- Officers must work overtime. Lose 2 points.
Extended Legislative Session -- Lose 2 points for added session of Congress.
COURTHOUSE VANDALISM -- Lose 3 points; vandals destroyed the offices.
LEGAL HOLIDAY Law offices are closed. Receive 3 extra points.
LEGAL HOLIDAY Law offices are closed. Receive 3 extra points.
Presidents' Day -- Holder receives 4 extra points.
Extended Legislative Session -- Lose 2 points for added session of Congress.

Extended Legislative Session

Holder looses 2 points for added session of Congress.

Presidents' Day

Holder receives 4 extra points.

Legal Holiday

Law offices are closed. Holder receives 3 extra points.

Extended Legislative Session

Holder looses 2 points for added session of Congress.

Courthouse Vandalism

Holder looses 3 points because vandals destroyed the offices.

Presidents' Day

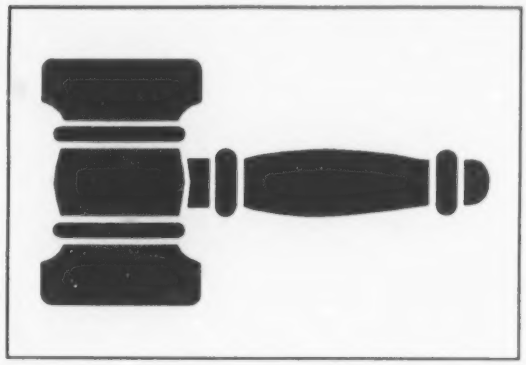
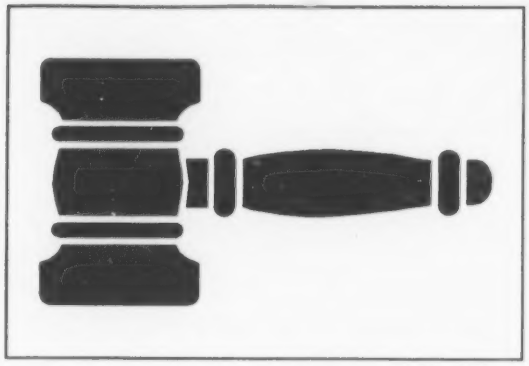
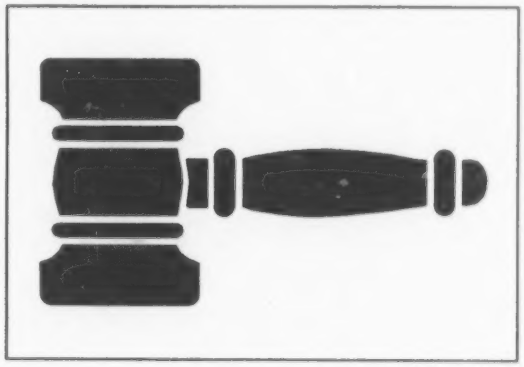
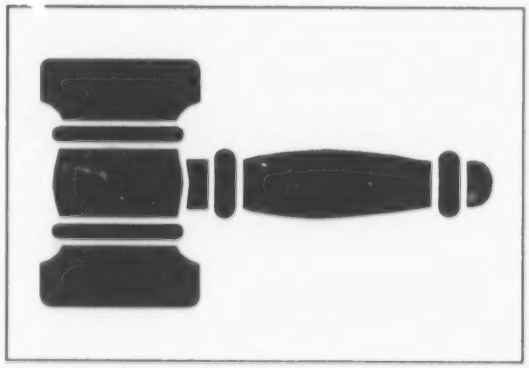
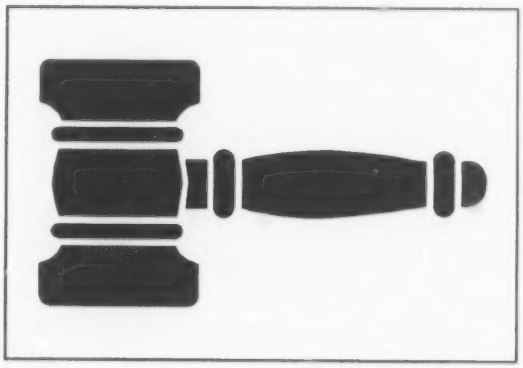
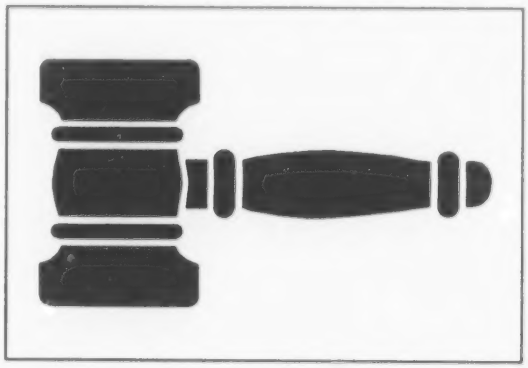
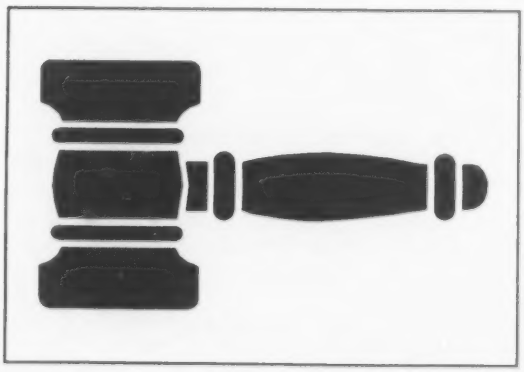
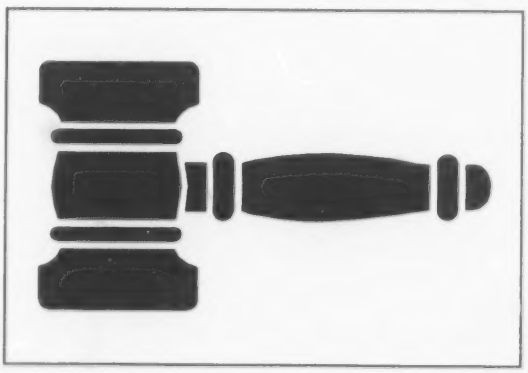
Holder receives 4 extra points.

Jailbreak

Officers must work overtime loose 2 points.

Legal Holiday

Law offices are closed.
Holder receives 3 extra points.

Question:
What is loitering?

Answer:
Loitering means to hang out or stand around in public places.

Question:
Who are the victims of a crime?
(Name 3)

Answer:
Injured person or persons,
injured persons family and friends,
lawbreaker, lawbreaker's family and friends, taxpayers, and everyone in society.

Question:
Name the three branches of government.

Answer:
Legislative Branch
Executive Branch
Judicial Branch

Question:

What is prowling?

Answer:

Prowling means hiding and sneaking around in an unusual way to cause fear to others.

Question:
What do we call the rules of society?

Answer:
Laws

Question:

Why is prowling against the law?

Answer:

People feel that anyone who hides and sneaks around may be planning to hurt them.

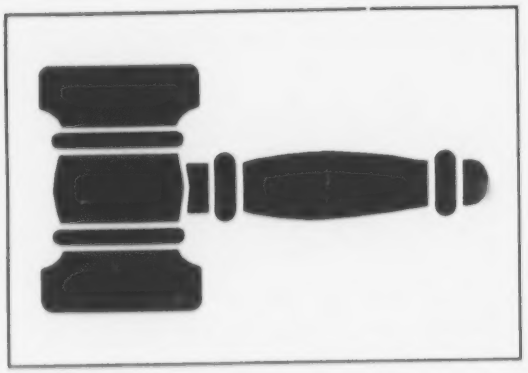
Question:
Name three of the long term consequences of crime.
Possible Answers:
Denial of right to vote
Denial of right to serve on jury.
Denial to hold public office.
Denial of right to obtain business licenses.
Loss of right to enlist in armed services.
Denial of right to own firearms.
Loss of job opportunities.

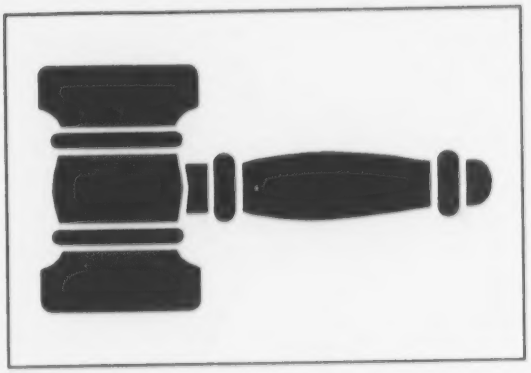
Question:

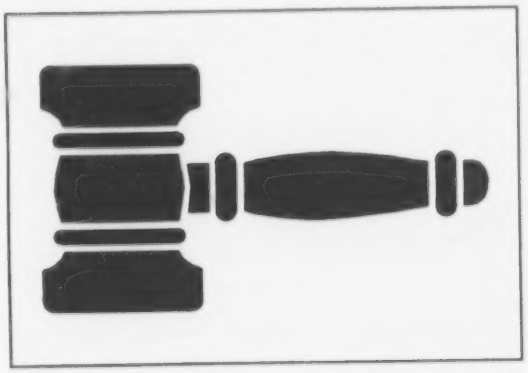
Why is truancy unlawful?

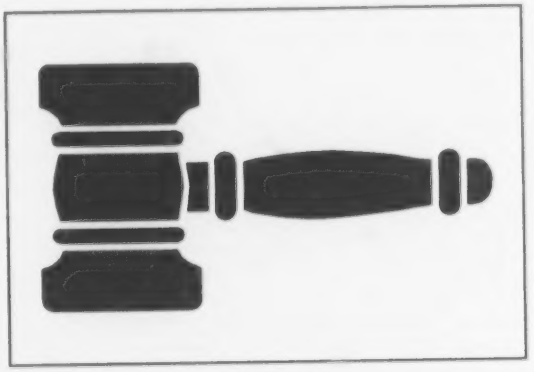
Answer:

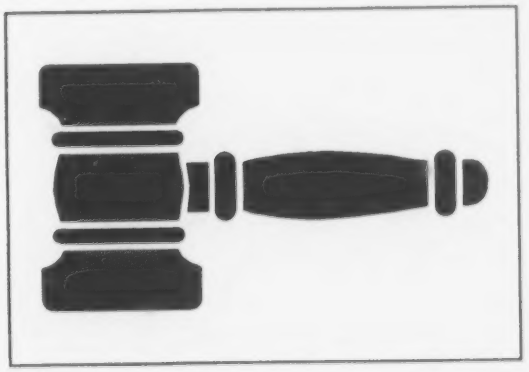
Students are required to attend school for their educational opportunities and/or they can get in trouble while out of school.

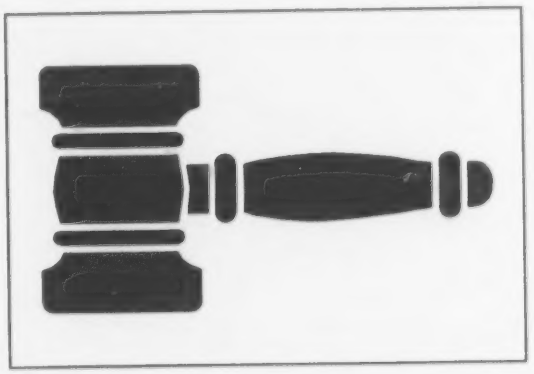


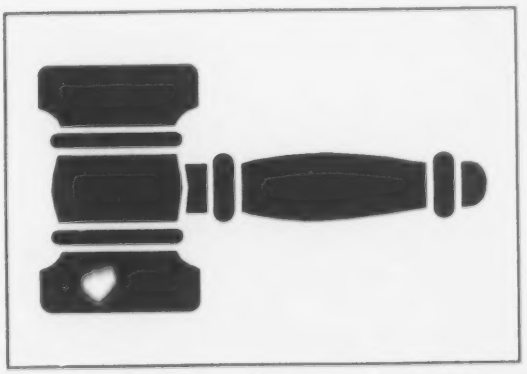


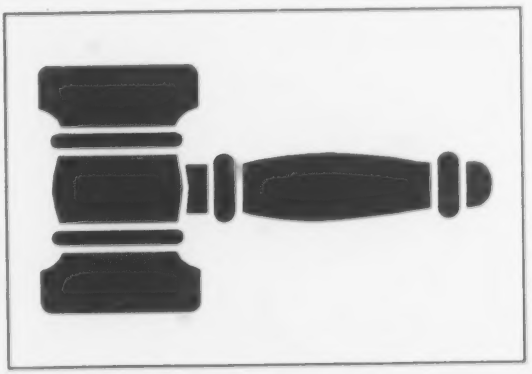












Question:

What is truant?

Answer:

A truant is a student who stays away from school without permission.

Question:

What is a misdemeanor?

Answer:

A crime that can result in a lawbreaker being sent to jail.

Question:

To take something that belongs to someone else is_____.

Answer:
stealing, larceny or theft.

Question:
A person who has been made to suffer because of a crime is a _____.

Answer:
A victim.

Question:

The county judge is an example of which branch of government?

Answer:
The judicial branch.

Question:
What is a delinquent?

Answer:

A minor who has broken a law.

Question:

The police and sheriff departments are an example of which branch of government?

Answer:

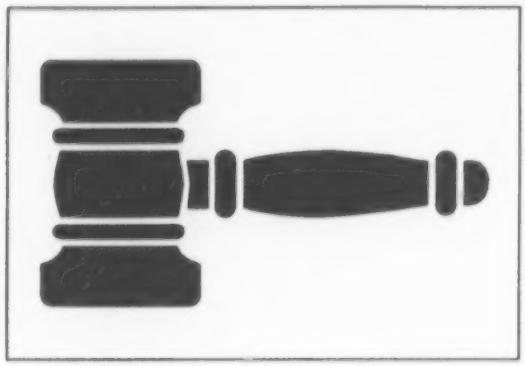
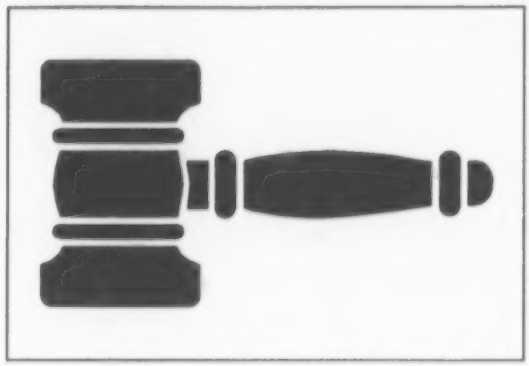
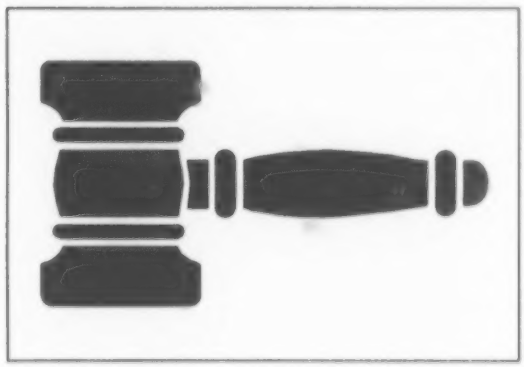
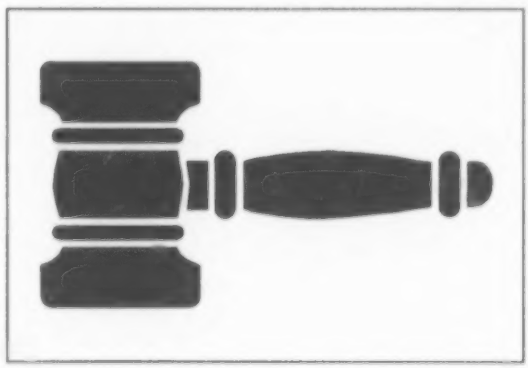
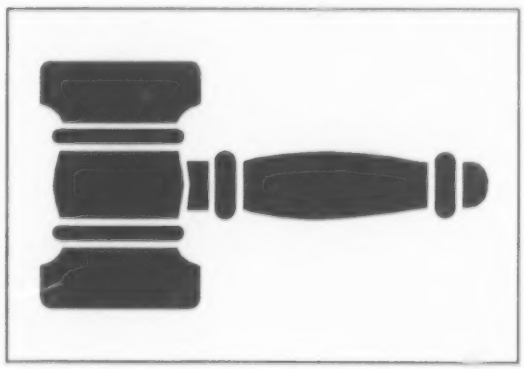
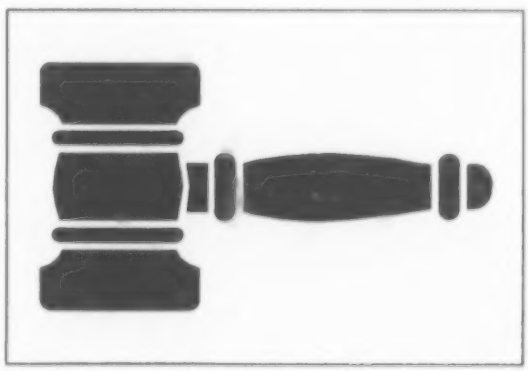
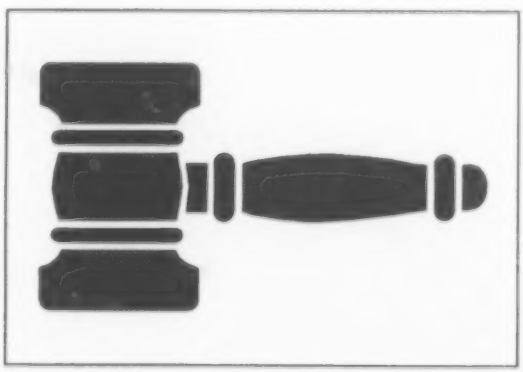
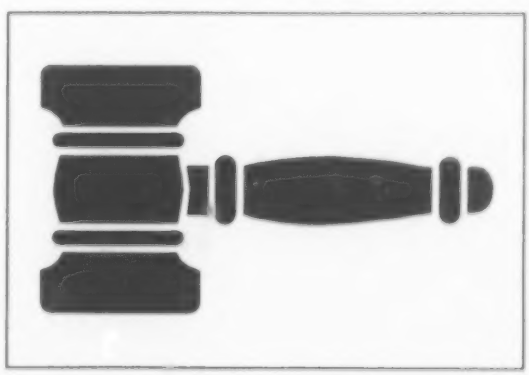
The executive branch.

Question:

The city council is an example of which branch of government?

Answer:

The legislative branch

Question:

What is a jury?

Answer:

Members of a community who decide in court whether a defendant is guilty or innocent of having committed a crime.

Question:

What rights do citizens have that trespassers ignore?

Answer:

Citizens have the right to own property and have the right to privacy .

Question:

Give one of two terms for a person under 18 years of age.

Answer:
A juvenile or a minor.

Question:

Can it be dangerous to trespass?

Answer:

Yes, trespasser could get shot.

Question:
What is trespassing?

Answer:
Entering a home, building or vehicle belonging to someone else without permission.

Question:
Is trespassing a crime?

Answer:

Yes

Question:

What is a statute?

Answer:

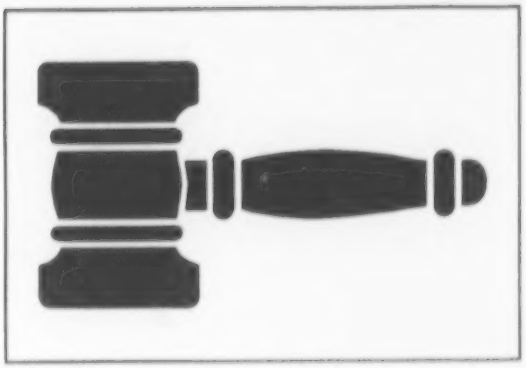
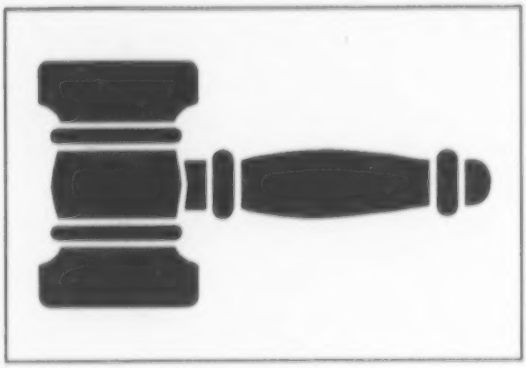
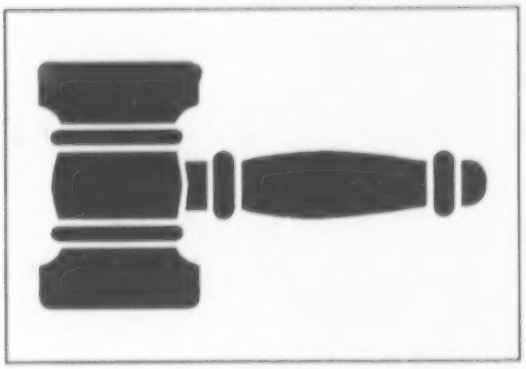
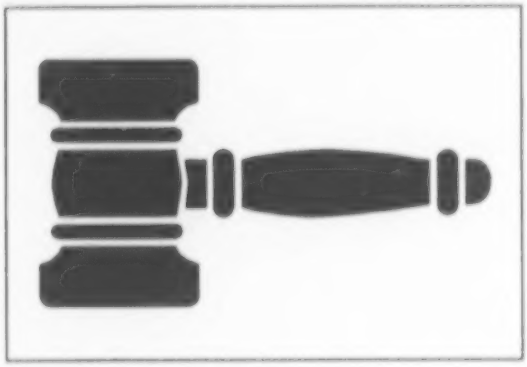
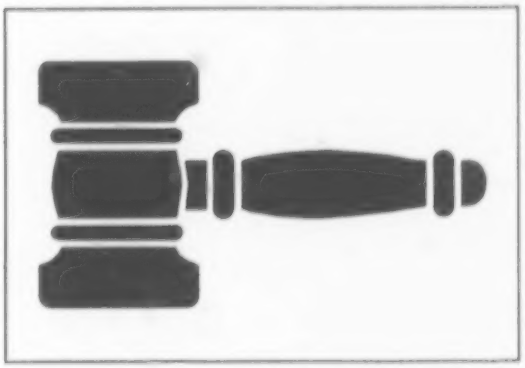
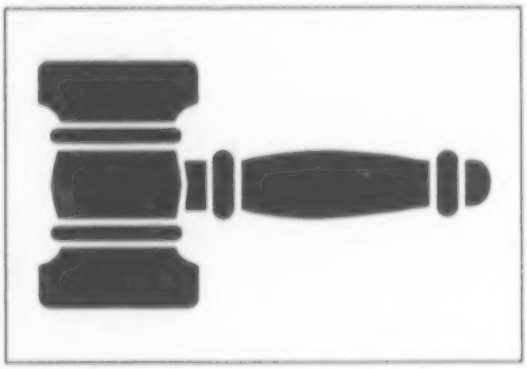
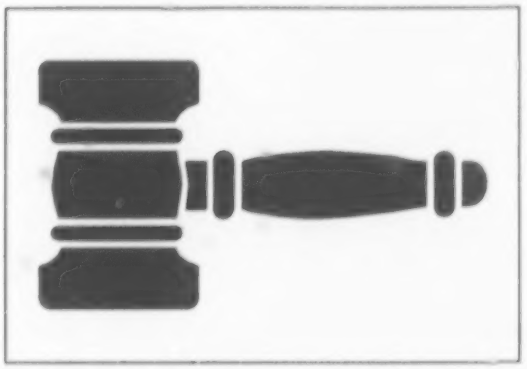
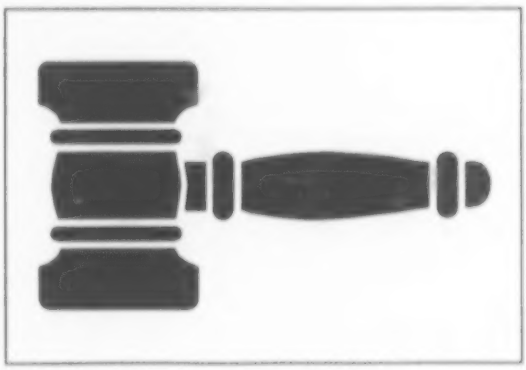
A law passed by legislators.

Question:

Is a person guilty of trespassing if lost and enters someone's yard by mistake?

Answer:

No, they have to enter the property on purpose.

Question:

What does it mean to have a right?

Answer:

It is a privilege or opportunity granted by law.

Question:

What is restitution?

Answer:

To pay back.

Question:

What is a prison?

Answer:

A place used to lock up lawbreakers for more than one year.

Question:

What does it mean to prosecute someone?

Answer:

To charge someone with having broken a way before a court.

Question:
True or False

Abuse means to use something in a wrong way to harm yourself or someone else.

Answer:
True

Question:
True or False
The three branches of government are the Legislative, the Judicial, and the Congressional.

Answer:
False

Question:

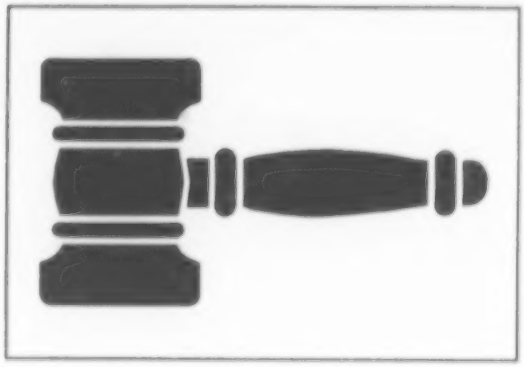
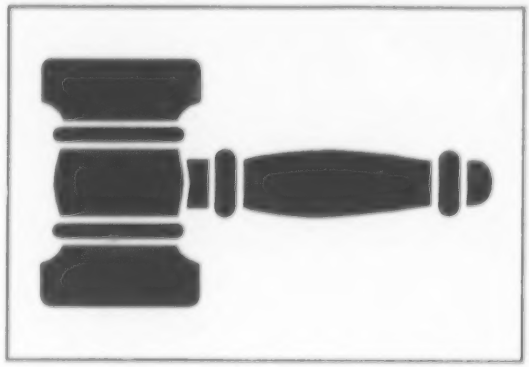
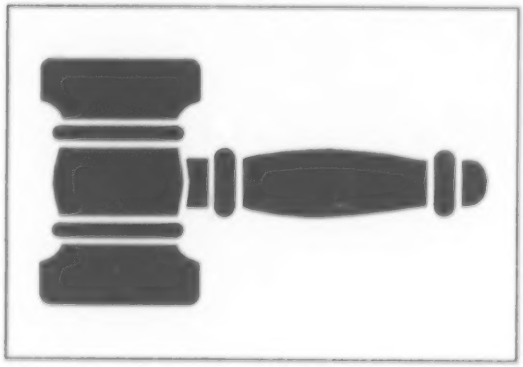
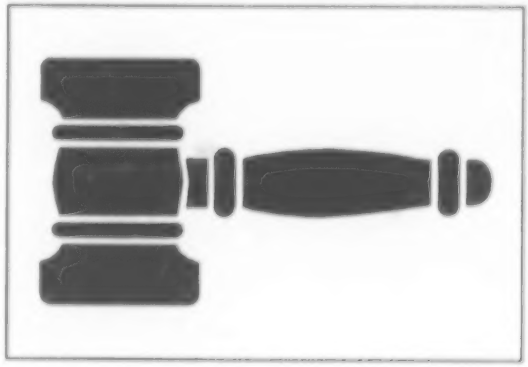
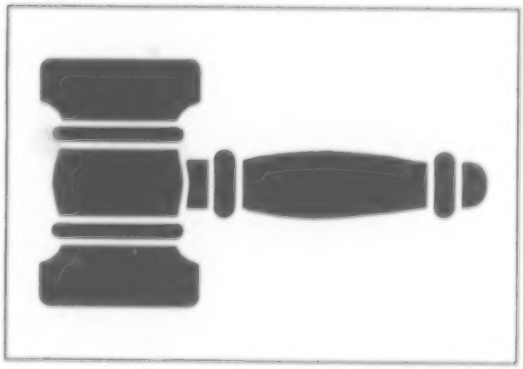
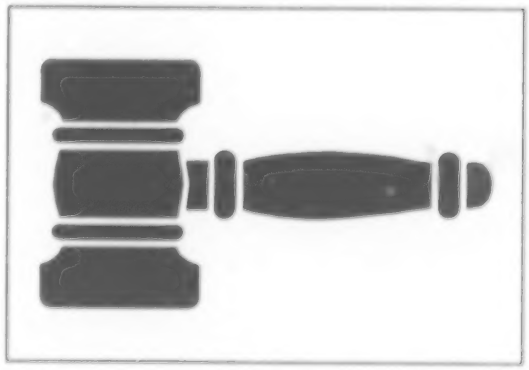
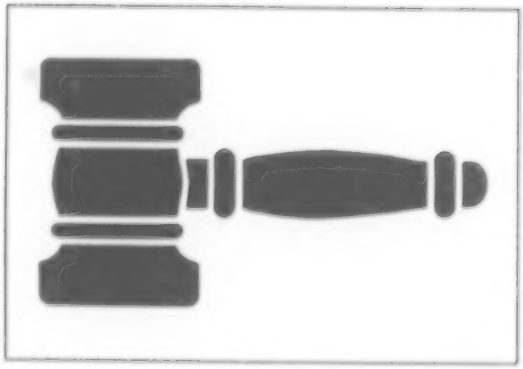
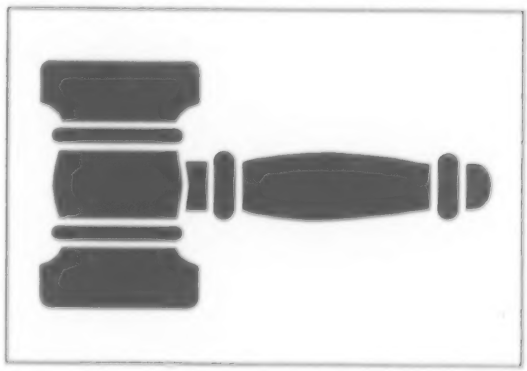
True or False
The Executive Branch of the government carries out the laws.

Answer:
True

Question:

True or False
The Judicial Branch of the Government is responsible for interpreting the laws.

Answer:
True

Question:

What is a sentence in the legal sense?

Answer:

Punishment ordered by a judge against a lawbreaker.

Question:

True or False
The legislative Branch of the government is responsible for enforcing the law.

Answer:
False.

Question:

How does one testify?

Answer:

Make a statement, under oath, to the court.

Question:

What does responsibility mean?

Answer:

A duty or obligation.

Question:

Define shoplifting.

Answer:

Pretending to be a customer and stealing from the store.

Question:

What is a verdict?

Answer:

The decision of a judge or a jury concerning the facts of a legal case.

Question:

A person who helps a lawbreaker is called an _____.

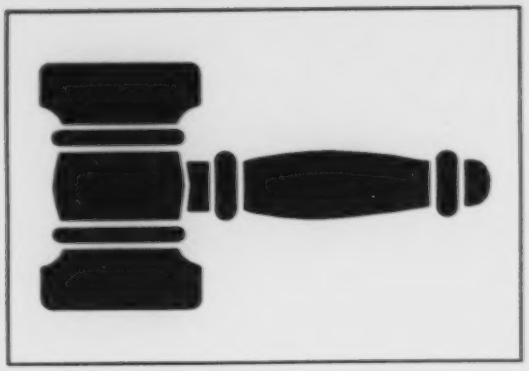
Answer:
Accessory

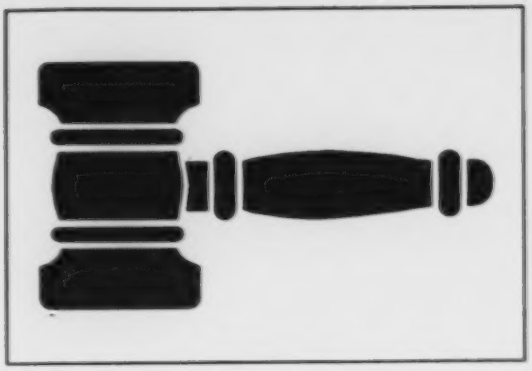
Question:

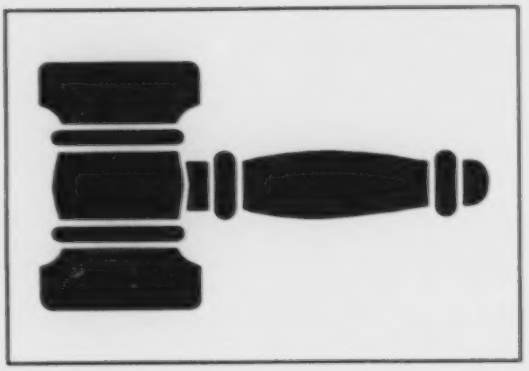
What is a witness?

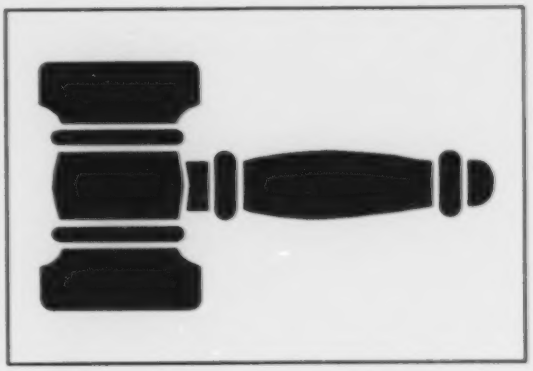
Answer:

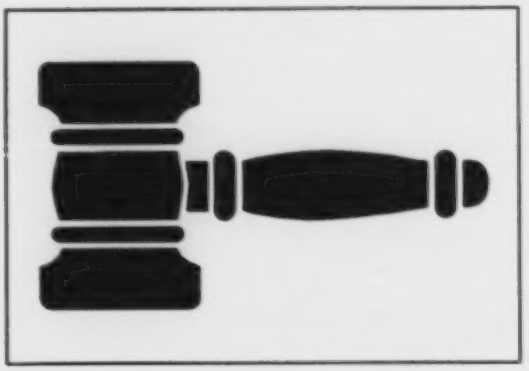
A person who has information about a case being considered in a trial.

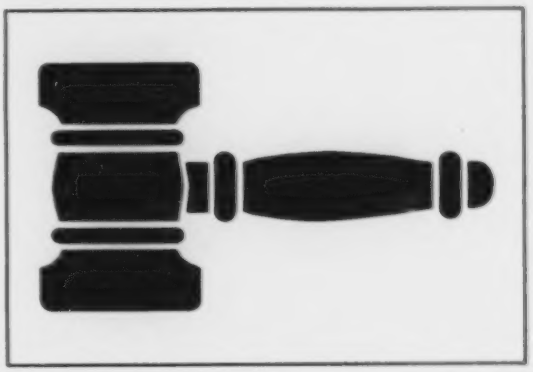


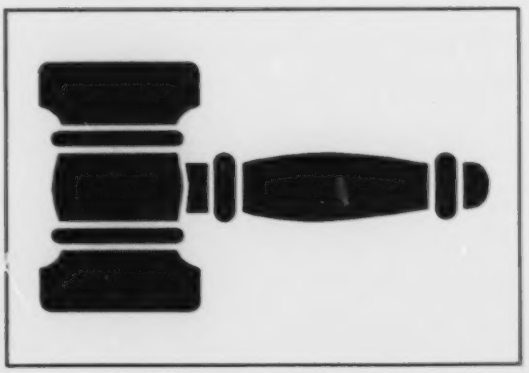


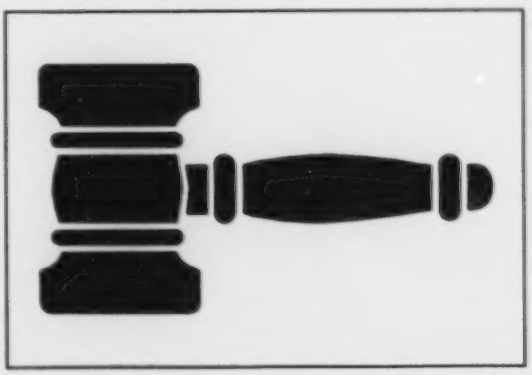












Question:

When an unlawful threat to hurt someone is made it is called an _____.

Answer:

Assault

Question:

If someone enters a home or building to commit a crime, it is_____.

Answer:
Burglary

Question:

Something of value given for a person's release from jail to ensure that person will return for his/her trial is called _____.

Answer:

Bail

Question:

What is battery?

Answer:

Battery means touching, hitting, or hurting someone unlawfully.

Question:

Explain the term, appeal.

Answer:

When a legal case is taken to a higher court for review.

Question:

True or false
Battery in the legal sense means to use a bat to destroy property.

Answer:
False

Question:

True or False
Arson means the son of the judge.

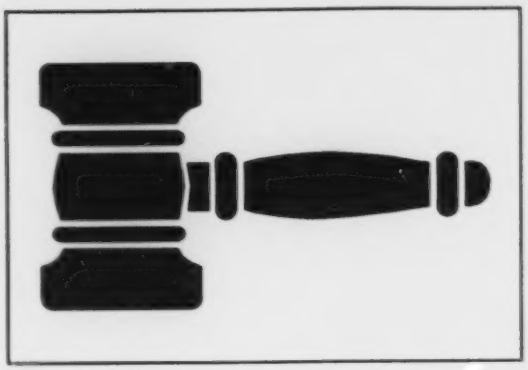
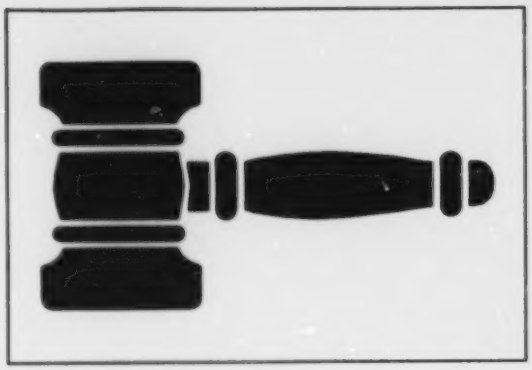
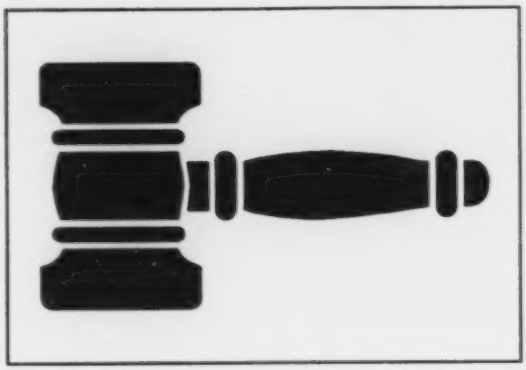
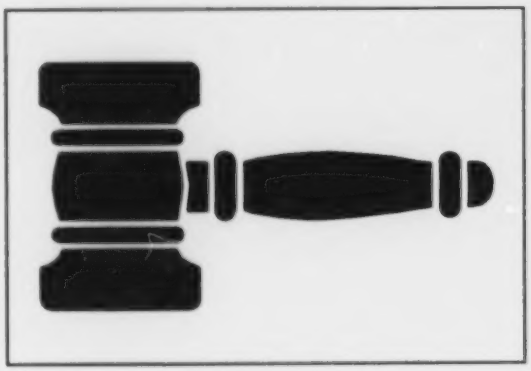
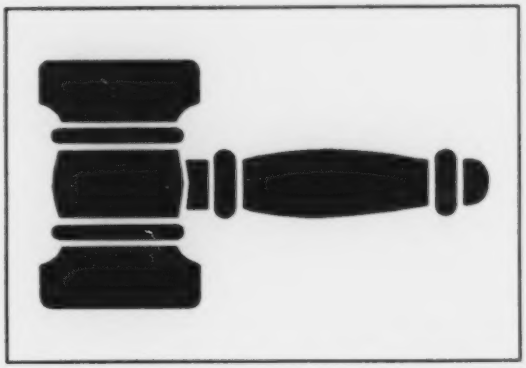
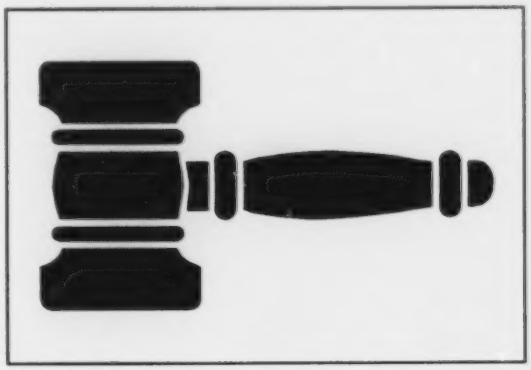
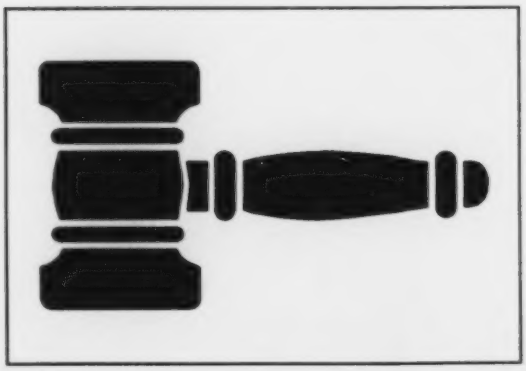
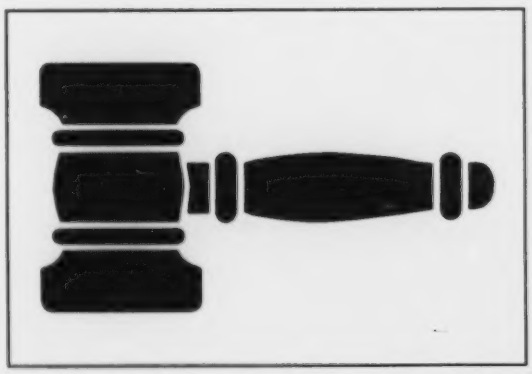
Answer:
False

Question:

What is arson?

Answer:

Unlawfully burning a building or other property.

Question:

The lawbreakers partner in crime is called an _____.

Answer:
Accomplice

Question:

What does the judge do?

Answer:

Manage a court.

Question:

Explain premeditated.

Answer:

A crime that was carefully planned before it was committed.

Question:

What is perjury?

Answer:

Telling a lie after having sworn to tell the truth.

Jail break

Officers must work overtime loose 2 points.

Question:

What is an oath?

Answer:

A solemn promise to tell the truth.

Courthouse Vandalism

Holder looses 3 points because vandals destroyed the offices.

Question:

Who is an offender?

Answer:

A person who breaks the law.

The Trial of Gandhi's Dandi Salt Party
An examination of Mohandas Gandhi's campaign of nonviolence to win the independence of India from Great Britain

Bobbie DeLoach
LaVista Junior High and Papillion Junior High Schools
Omaha, Nebraska

ABSTRACT
This lesson will help students look at the historical battle waged by Mohandas Karamchand Gandhi for the independence of India against colonial power Great Britain. This lesson was designed to be the culminating activity of a study of the Indian Independence Movement. The scripted trial will allow students to weigh the value of established law and the use of civil disobedience to call attention to unjust laws. Included is a short biography of Gandhi; excerpts from a letter Gandhi wrote to the Viceroy, Lord Irwin; a copy of the arrest warrant for Gandhi; and a student handout that explains why the trial really didn't take place and how Gandhi's life ended.

GOALS
As a result of this lesson students will:
- gain knowledge of Gandhi's movement of civil disobedience in the struggle for self rule in India.
- analyze the role of the responsible citizen in a democracy.
- participate in the trial process.

AUDIENCE
Grades 7-9; Junior High/Middle School students in Social Studies units covering India and Eastern Asia, or in American History in connection to Martin Luther King and the civil rights movement

TIME REQUIRED
The actual trial can be done in one to two class periods, but an additional class period will be needed to prepare and practice for the trial. One class period should be given for debriefing the trial and follow up discussion and evaluation. (Total: 3 to 4 class periods.)

MATERIALS NEEDED

1. Handout #1: Background reading about Gandhi's life and political movement (Some texts may have adequate materials)
2. Handout #2: Trial Script
3. Handout #3: What Really Happened
4. Handout #4: Arrest Warrant
5. Handout #5: Gandhi's Letter to Lord Irwin
6. Vocabulary Sheet
7. Nice but not essential: a gavel and black robe for the judge

PROCEDURES
The students will have done the background reading on Gandhi and the independence movement in India. The class will have discussed in large group session the incidents that have a bearing on the trial (i.e. the Amritsar Massacre, the Salt March, etc.).

The script of the trial will be passed out to the class and the roles described. The teacher may assign roles, students may volunteer, or small groups may be assigned to do the prosecution, defense, or jury/court officials, and assignment of roles can come from within those groups.

Practice time should be planned for the day prior to presentation to allow for student questions about content, vocabulary, and trial processes. The activity could be planned for a show trial by one or more classes to be presented as a team activity at the middle school level.

DISCUSSION QUESTIONS
(About the trial process)

1. Do you agree with the verdict of the jury?
2. Which arguments do you think most influenced the decision of the court?
3. Which witnesses were the most believable?
4. Which witnesses were the most damaging to Gandhi's case?
5. Which testimony was the most helpful to Gandhi's defense?
6. What were the disputed areas between the defense and the prosecution?

DISCUSSION

1. Can you think of other examples of civil disobedience or nonviolent methods used to try to get things changed? (Currently or historically.)
2. In a democracy, is it right for a citizen to disobey a law in order to try to get that law changed?
3. Some have said that our system of justice is not perfect. How would you react to that statement?

EVALUATION
Students will write a short paragraph for a culminating activity:

Gandhi believed that nonviolence is more effective than violence in calling attention to conditions that need to be changed. Do you agree with him? Why or why not? Support your opinion.

TIPS FOR THE TEACHER
Physically organize the classroom into a court setting. Make things as realistic as possible.

Layout of Classroom:
Judge's bench at the front of the room, centered. Bailiff's chair and desk on the judge's right (audience's left). Witness' chair on the judge's left (audience's right). Jury box on the far right of the room, between the witness' chair and the side wall. Prosecution/plaintiff's table and defense table facing judge's bench, witness chair, and bailiff. Prosecution/plaintiff's table should be on the side nearest the jury box, since that party has the burden of proof.

Spend time with those students who will serve in the jury to emphasize the importance of the role they will play. Include the entire class in practice time and explanations that will take place the day before the actual trial.

To adapt for upper grade/gifted students: Have the class write their own mock trial for Gandhi. The class could be divided into two teams, prosecution and defense. After adequate research, each of these teams could prepare their case for trial, determining witnesses, writing their own questions, etc.

BOOKS FOR YOUNG READERS ON GANDHI

- Cherney, Glenn Alan. *Mohandas Gandhi*, New York: Franklin Watts, 1983.
- Coolidge, Olivia. *Gandhi*, Boston: Houghton Mifflin Company, 1971.
- Faber, Doris and Harold. *Mahatma Gandhi*, New York: Julian Messner, 1986.
- Goldstein, Robert. *The Death of Gandhi*, New York: Franklin Watts, 1973.
- Hunter, Nigel. *Gandhi*, New York: The Bookwright Press, 1987.
- Montgomery, Elizabeth Rider. *Peaceful Fighter: Gandhi*, Champaign, Illinois, Garrard Publishing Company: 1970.
- Rawding, F.W. *Gandhi & The Struggle For India's Independence*, Minneapolis: Lerner Publications Company, 1982.
- Spink, Kathryn. *Gandhi*, London: Hamish Hamilton, 1984.
- Kytle, Calvin. *Gandhi, Soldier of Nonviolence: An introduction*. Cabin John, MD: Seven Locks Press, 1982.
- Nicholson, Michael. *Mahatma Gandhi*, Milwaukee, WI: Gareth Stevens Publishing, 1988.

RESOURCES

- Payne, Robert. *The Life and Death of Mahatma Gandhi*, New York: E.P. Dutton & Co., Inc., 1969.
- Shirer, William L. *Gandhi: A Memoir*, New York: Simon and Schuster, 1979.
- Chaudhury, P.C. Roy. *Gandhi and His Contemporaries*, New Delhi: Sterling Publishers (P) LTD.,1972.

HANDOUT #1: MOHANDAS KARAMCHAND GANDHI, GREAT SOUL OF INDIA

Mohandas K. Gandhi continues to draw the attention of the world long after his death. Students of history still read about the man who called the attention of the world to the plight of his country in its fight for independence from colonial giant Great Britain. Gandhi was a man of small stature, who dressed most often in a dhoti, the garment of the ordinary Indian man. He traveled throughout the country of India to unite his fellow countrymen in his campaign against occupation by the British.

Gandhi was born on October 2, 1869, in Porbandar, India. His father was prime minister in the state of Porbandar, and his mother was a devout Hindu who shared her strong religious feelings with her son. Gandhi married at the age of 13, which was not unusual for the arranged marriages of that time. He continued his education and eventually went to England to study law. When he returned to India, he had difficulties earning a living as an attorney and finally took at job with an Indian firm in South Africa.

Arriving in South Africa, Gandhi found that Indian people there suffered severe discrimination because of the laws. He became the lawyer for the Indian laborers who had come to Africa to work. He stayed in South Africa some 21 years, resisting the colonial British laws that he felt to be unfair. His resistance was always nonviolent, and by the time he left to return to India, his countrymen in South Africa were receiving fairer treatment.

When Gandhi arrived back in India, he was greeted as a hero for the things he had done in South Africa. The Indian people were hoping that Gandhi could accomplish the same things in India because they, too, were governed by the laws of the ruling British colonial government. Gandhi's first task was to learn as much as he could about the situation in India since he had been gone 21 years. He took time to travel throughout the country, talking with the villagers and observing the problems first-hand. He later became a leader in the Indian National Congress party, through which he hoped to work for the improvement of his countrymen.

Gandhi became very influential with the people of India. He felt that he had to teach his followers the ways of nonviolence in order for his campaigns of civil disobedience to be effective. When they did things that did not please him, he would fast. They respected Gandhi and feared for his health, so they would do things Gandhi's way. When a large group of his followers were gathered to protest a British ban on a visit by Gandhi in the town of Amritsar, the British commander ordered troops to fire into the crowd, killing several hundred people. The killing was called the Amritsar Massacre of 1919, but there was no mass uprising by the people because of Gandhi's insistence that there be no retaliation.

Gandhi also took it upon himself to teach the Indian village people to spin their own cotton so they would not have to buy it from the British mills. This was but one step toward establishing economic independence, which Gandhi thought was necessary for India. On another occasion, Gandhi deliberately broke the salt laws which required that all Indians pay a tax on salt to the government and decreed that Indians could not process their own salt but must buy it from the government. Gandhi was eventually arrested and thrown in jail for this offense. By the end of his life, Gandhi had spent a total of 2338 days in jail.

[Note: Mr. Gandhi was often called Mahatma, a term of reverence for a wise and holy person.]

HANDOUT #2
The Trial of Gandhi's Dandi Salt Party

An examination of Mohandas Gandhi's campaign of nonviolence to win the independence of India from Great Britain --

A hypothetical encounter between Mohandas Gandhi and British rule in Colonial India

CHARGES

1. Illegally making salt
2. Inciting to riot or sedition (words or actions that make people rebel against the authority of the government)

WITNESSES

Lord Irwin, Viceroy of India
Webb Miller, news correspondent
Sgt. Major Smythe, salt tax collector
Mme. Sarojini Naidu, Gandhi follower
Jawaharlal Nehru, Congress Party president
Mohandas K. Gandhi

TRIAL SCRIPT

SCENE: A courtroom in Bombay. Gandhi sits at the defense table with his attorneys.

BAILIFF: All rise. The District Court of Bombay is now in session with the Honorable Sir C.N. Bloomfield presiding. The case of the Crown Colony of India vs. Mohandas K. Gandhi will be heard.

JUDGE: Be seated. This is the case of the Crown versus M.K. Gandhi on the charges of civil disobedience for illegally making salt and inciting to riot, an act of sedition against the Crown. Court is now in session. (GAVEL RAPS) Is the Advocate-General ready?

PROSECUTION #1: We are, Your Honor.

JUDGE: Is the defense ready?

DEFENSE: We are, Your Honor.

JUDGE: Does the Prosecution have an opening statement?

PROSECUTION #1: Yes, Your Honor.

JUDGE: Counsel, you may proceed with your opening argument.

PROSECUTION #1: We represent His Majesty's government and, through the testimony of witnesses we will present today, we will prove that Gandhi did willfully break the law dealing with the production of salt and incite many of his followers to break those same laws. Lord Irwin will testify that Gandhi did intentionally march to the sea to illegally pick up salt. We will introduce a letter written to Lord Irwin by Gandhi in which he states his intention to break the salt laws. Webb Miller, an eyewitness to the actual march to Dandi and to the picking up of salt on the coastline, will tell you the person he saw gathering salt on the morning of April 6 was Mohandas Gandhi. Sgt. Major Smythe will then tell you how the disciples of Mr. Gandhi disrupted the gathering of the salt tax following the March to Dandi. Our last witness will be Madame Naidu, the leader of the raid on the Salt Works at Dharasana following the arrest of Gandhi, who will, under protest, tell you how she accompanied Gandhi on his March to the Sea. The testimony of these witnesses will leave no doubt in your mind about the guilt of Mohandas K. Gandhi on the charges of illegally making salt and of inciting his followers to acts of civil disobedience and noncooperation with the government of Great Britain.

JUDGE: Thank you. The Court will now hear the Defense's opening statement.

DEFENSE #1: Yes, Mohandas Gandhi did pick up several lumps of salt along the shoreline at Dandi on April 6, but the defense will show his actions were justified because he had attempted to negotiate with the Viceroy to resolve these inhumane salt laws. The defense witnesses will tell you how Lord Irwin and the British government refused to negotiate in good faith. The defense will show you how Gandhi answered to a natural law which is higher than the laws made by man, such as John Locke's proposition that when a people are bound by tyranny they have the right to rise up and throw off those chains. While Mahatma Gandhi may

have technically violated the British law, it is the position of the defense that the actions taken by Mr. Gandhi were indeed justified under the natural laws of God. Our witnesses will tell you of Gandhi and how a noble and innocent man has willingly placed his personal freedom in jeopardy for the independence of India.

JUDGE: Will the Prosecution please call its first witness?

PROSECUTION #2: The Crown calls Lord Irwin.

BAILIFF: Raise your right hand, please. Do you affirm that the testimony you are about to give is the truth, the whole truth, and nothing but the truth?

IRWIN: I do. (sit down)

PROSECUTION #2: Lord Irwin, what is your official position in India?

IRWIN: I am His Majesty's representative in India. As Viceroy, I oversee all interests of the British Empire in India.

PROSECUTION #2: Do you know the defendant?

IRWIN: Yes.

PROSECUTION #2: How did you first meet Mr. Gandhi?

IRWIN: When I took over this position from Lord Reading, I was charged with the job of preparing for the committee that was coming from England to see if the people of India were able to govern themselves. Part of that preparation was to engage in talks with the Indian leadership and persuade them to consider a compromise with the Simon Commission in the dispute over the question of self-rule for India. I spoke with Mr. Gandhi as well as many of the members of the Indian Congress at that time.

PROSECUTION #2: Through your talks with Gandhi did you learn of Mr. Gandhi's political views?

DEFENSE #2: Objection. Hearsay. Lord Irwin may not testify to the views Mr. Gandhi expressed.

PROSECUTION #2: Gandhi's statements to Lord Irwin go to state of mind and are relevant to show the intent of Mr. Gandhi to violate the Salt Laws.

JUDGE: Objection overruled. (To the witness) You may answer the question.

IRWIN: I found Mr. Gandhi to be friendly, without bitterness, but outspoken in his belief that we, the British, were at fault in not allowing self-rule for India.

PROSECUTION #2: Could we have this document marked Exhibit A? (The attorney shows the letter to defense counsel, then hands the letter to the clerk. The clerk takes the letter from the attorney, marks it, and returns it to the attorney).

PROSECUTION #2: I'm handing you what's been marked as Prosecution Exhibit A. Do you recognize this document?

IRWIN: Yes.

PROSECUTION #2: Could you identify Prosecution Exhibit A?

IRWIN: Yes, this is a letter from Mohandas Gandhi that I received on March 2nd of this year.

PROSECUTION #2: I move that Prosecution Exhibit A be admitted into evidence.

JUDGE: Exhibit A is admitted.

PROSECUTION #2: Would you read the underlined portion of the letter to the court?

IRWIN: *Before embarking on civil disobedience and taking the risk I have dreaded to take all these years, I would fain approach you and find a way out .... I know that in embarking on nonviolence, I shall be running what might be termed a mad risk .... Conversion of a nation that has consciously or unconsciously preyed upon another, far more numerous, far more ancient and no less cultured than itself, is worth any amount of risk .... But if my letter makes no appeal to your heart, on the eleventh day of this month I shall proceed, with such co-workers of the Ashram as I can take, to disregard the provisions of the Salt Law.*

PROSECUTION #2: Did you respond to Mr. Gandhi's letter?

IRWIN: I refused to see Gandhi, but I did send a reply in which I told him that I regretted that he felt he must do something that would cause him to be in violation of the law. I consulted with other government officials, and we decided to allow him to go ahead with whatever he had

planned. We had hoped that the Indian people would not go along with his plans.

PROSECUTION #2: Lord Irwin, did you attempt to stop Gandhi from his march to the sea?

IRWIN: No, I did not.

PROSECUTION #2: Thank you, no further questions, Your Honor.

JUDGE: (To defense counsel) Your witness.

DEFENSE #2: What did Gandhi tell you was his justification for disregarding the Salt Law?

IRWIN: I do not know why Gandhi decided to ignore the Salt Laws. There can be no justification for opposing the lawful and responsible government of a nation.

DEFENSE #2: Lord Irwin, you just read a portion of Gandhi's letter. Will you look at it again and tell us what were Gandhi's objections to the ruling government of India?

IRWIN: He criticized the system of taxes, in particular the salt taxes. He also demanded the reduction of the land revenues, military expenditures, and government salaries by 50 percent; he demanded the discharge of all political prisoners, the enforcement of the constitutional guarantees of freedom of expression; and finally the abolishment of the Salt Laws which did not permit the villages to use their own locally available salt.

DEFENSE #2: Lord Irwin, what is your salary?

PROSECUTION #2: Objection: relevance.

DEFENSE #2: Goes to Gandhi's intent, Your Honor.

JUDGE: Overruled.

IRWIN: It is something over 21,000 rupees ($7,000) per month plus other benefits.

DEFENSE #2: That works out to about 700 rupees per day. Do you know what the average Indian's wage is?

IRWIN: I do not know positively, but in his letter Mr. Gandhi said that it was less than two annas (4 cents) a day.

DEFENSE #2: So, assuming Mr. Gandhi is correct, is it fair to say that your salary is 5,000 times what the average Indian makes?

IRWIN: Yes.

DEFENSE #2: Lord Irwin, do you know how much the salt tax costs the average Indian?

IRWIN: I have been told that it averages out to three days' income for most.

DEFENSE #2: Do you think that is an excessive amount, your Lordship?

IRWIN: I think we all must pay our part.

DEFENSE #2: Lord Irwin, do you understand that the average Indian must use more salt in his diet than you will use in yours because of the type of manual labor he does.

IRWIN: Yes. I suppose so . . . .

DEFENSE: #2: Would you agree then that the poor pay more in salt taxes than the rich in India?

IRWIN: Yes.

DEFENSE: #2: Do you consider this responsible government?

IRWIN: This is the way the law is written. I did not write the law.

DEFENSE #2: But, do *you* consider it to be responsible government?

IRWIN: I don't know.

DEFENSE #2: Did you consider it responsible government to massacre hundreds of Indians because they were attending a political meeting in Amritsar in 1919?

IRWIN: My dear sir, that incident was handled by a former Viceroy, and I have no firsthand knowledge of the events at that time. I do know that His Majesty's government deeply regrets the actions of the British Army at Amritsar.

DEFENSE #2: No further questions, Your Honor.

JUDGE: The prosecution may call its next witness.

PROSECUTION #3: Your Honor, the prosecution calls Webb Miller.

BAILIFF: Raise your right hand, please. Do you affirm that the testimony you are about to give is the truth, the whole truth, and nothing but the truth?

MILLER: I do.

JUDGE: You may be seated.

PROSECUTION #3: Sir, will you state your name and occupation for the record?

MILLER: My name is Webb Miller, and I'm a newspaper correspondent for United Press.

PROSECUTION #3: Mr. Miller, where were you on April 6 of this year?

MILLER: I was in Dandi.

PROSECUTION #3: Why were you in Dandi on that date?

MILLER: I had been covering Gandhi's trip to that seacoast city for my newspaper syndicate.

PROSECUTION #3: Do you see Gandhi in the court room today?

MILLER: Yes.

PROSECUTION #3: Can you identify him for the court?

MILLER: Yes, he is sitting at the table with the defense counsel.

PROSECUTION #3: Let the record show that Mr. Miller identified Mohandas Gandhi, the defendant.

PROSECUTION #3: Did you observe Gandhi do anything in Dandi on April 6?

MILLER: Early on the morning of April 6 Mahatma Gandhi walked out into the sea and bathed and purified himself according to the Hindu custom. On his way out of the water at approximately 8:30 a.m., he picked up a lump of salt from the beach.

PROSECUTION #3: Thank you, Mr. Miller. The prosecution has no further questions.

JUDGE: Does the defense have questions for this witness?

DEFENSE #3: We do, Your Honor.

DEFENSE #3: Mr. Miller, were you with Gandhi and his party on the night of April 5?

MILLER: Yes, I was.

DEFENSE #3: Did you speak with Gandhi on that occasion?

MILLER: Yes, I and several reporters, foreign and Indian, talked with Gandhi that evening.

DEFENSE #3: Did Gandhi tell you what he hoped to accomplish by breaking the Salt Laws?

MILLER: When we asked him, he said . . . . "I want world sympathy in this battle of Right against Might."

DEFENSE #3: I have no other questions for Mr. Miller.

JUDGE: Mr. Miller, you may step down. The prosecution may call its next witness.

PROSECUTION #4: Your Honor, the prosecution calls Sgt. Major Smythe to the stand.

BAILIFF: Raise your right hand, please. Do you affirm that the testimony you are about to give is the truth, the whole truth, and nothing but the truth?

SMYTHE: I do.

JUDGE: Be seated.

PROSECUTION #4: Sgt. Maj. Smythe, what is your current assignment in His Majesty's service?

SMYTHE: I am in charge of the collection of the salt tax for the western provinces of India.

PROSECUTION #4: How long have you had this assignment?

SMYTHE: Three years.

PROSECUTION #4: Did the Salt March led by the defendant have any effect on the collection of the salt tax?

SMYTHE: Yes sir.

PROSECUTION #4: What was that effect?

SMYTHE: In the weeks following April 6, Indians everywhere were breaking the Salt Laws by gathering salt, selling salt illegally, setting up illegal salt factories, and picketing government shops. The collection of the taxes on salt came to a standstill.

PROSECUTION #4: Were the people who were engaged in these illegal acts followers of Gandhi?

DEFENSE #4: Objection: foundation.

JUDGE: Sustained.

PROSECUTION #4: Sgt. Major Smythe, can you describe the garments of the people who were breaking the salt tax?

SMYTHE: Yes, sir. They were wearing caps, shirts, and dhotis made of a rough, homespun cloth.

PROSECUTION #4: Based on your personal experience as an officer in His Majesty's service in India, what is the significance of this type of dress?

SMYTHE: It is common knowledge that the followers of Gandhi wear clothing of homespun material because he has asked the people to spin their own thread and weave their own cloth to avoid buying English textiles.

PROSECUTION #4: Were people arrested for breaking the Salt Laws?

SMYTHE: Yes, sir. The Viceroy ordered mass arrests. According to our official records, by the end of the month, we had arrested over sixty thousand offenders.

PROSECUTION #4: Thank you Sgt. Major Smythe. I have no more questions.

JUDGE: Does the defense wish to question the Sgt. Major?

DEFENSE #4: Yes, Your Honor, we do.

PROSECUTION #4: Sgt. Major, you participated in these arrests, did you not?

SMYTHE: Yes, I did.

DEFENSE #4: None of these people were violent when they were arrested, were they?

SMYTHE: No sir, none of the arrests at which I was present resulted in any violence on the part of the followers of Mr. Gandhi.

DEFENSE #4: Thank you, Sgt. Major Smythe. No more questions.

JUDGE: Sgt. Major you may step down. Does the prosecution have additional witnesses?

PROSECUTION #5: Yes, our next witness is Madame Sarojini Naidu.

BAILIFF: Raise your right hand, please. Do you affirm that the testimony you are about to give is the truth, the whole truth, and nothing but the truth?

NAIDU: I do.

BAILIFF: You may be seated.

PROSECUTION #5: Your Honor, Madame Naidu is a declared follower of Gandhi and we request the court to recognize her as a hostile witness and allow the prosecution to ask leading questions.

JUDGE: I'll allow you to proceed, subject to later objection by the defense.

PROSECUTION #5: Madame Naidu, you know the defendant, don't you?

NAIDU: Yes.

PROSECUTION #5: How long have you known the defendant?

NAIDU: I met Mohandas Gandhi in 1914 while we were both in London during World War I.

PROSECUTION #5: You accompanied Gandhi on his so-called Salt March, didn't you?

NAIDU: I accompanied him on the march for freedom.

PROSECUTION #5: Following Gandhi's arrest, you later carried out his plan for civil disobedience by leading an assault on Dharasana Salt Works, didn't you?

NAIDU: I led a *march* on Dharasana.

PROSECUTION #5: No further questions of this witness, Your Honor.

JUDGE: Does the defense wish to question this witness?

DEFENSE #5: We do, Your Honor. Madame Naidu, will you please describe your relationship with Mr. Gandhi?

NAIDU: I am a disciple and good friend of Gandhi. We have worked together to achieve the self-rule of India through the Indian National Congress party for many years. We met in London in 1914, and I knew then that Mahatma Gandhi would change our world. I am pleased to say that I have been a part of Gandhi's inner circle since 1917 and have been a dedicated

advocate of nonviolent protest during these past 13 years.

DEFENSE #5: Madame, the prosecution asked about the incident at the Dharsana Salt Works. Can you tell us what happened on that occasion?

NAIDU: After we reached the compound, column after column of Congress volunteers advanced to the compound gates and were beaten back by native policemen with steel lathis. None of the marchers so much as raised an arm to ward off their blows. There was no fight. The marchers simply advanced until they were struck down. Over 320 marchers were injured. Webb Miller was there and wrote a column about the incident which appeared in over 1,000 newspapers here and abroad.

DEFENSE #5: The defense has no further questions of Madame Naidu.

PROSECUTION # 5: Your Honor, I have some questions for Mrs. Naidu on redirect.

JUDGE: You may proceed.

PROSECUTION #5: Madame Naidu, Gandhi's followers have resorted to violence on occasion, haven't they?

NAIDU: There have been some outbreaks of violence, but not with Gandhi's approval. In fact, Mahatma fasted until the violence stopped.

PROSECUTION #5: Madame, isn't it unrealistic to expect there will never be violence if you encourage people to engage in acts of civil disobedience?

NAIDU: Gandhi has devoted many years to teaching the process of active resistance which requires no reactions or violence in response to the actions of government representatives such as the police or army.

PROSECUTION #5: Yet despite that, some of his followers have engaged in violent acts, correct?

DEFENSE #5: Objection, Your Honor. Asked and answered.

JUDGE: Sustained.

PROSECUTION #5: No further questions, Your Honor.

JUDGE: Does the prosecution have further witnesses?

PROSECUTION #5: No, Your Honor, the prosecution rests.

JUDGE: Is the defense ready to present its first witness?

DEFENSE #6: We are, Your Honor. The defense calls Jawaharlal Nehru.

BAILIFF: Raise your right hand, please. Do you affirm that the testimony you are about to give is the truth, the whole truth, and nothing but the truth?

NEHRU: I do.

JUDGE: Be seated.

DEFENSE #6: Mr. Nehru, what is your occupation?

NEHRU: My name is Jawaharlal Nehru, and I am presently serving as President of the Indian National Congress Party.

DEFENSE #6: Do you know Mr. Gandhi?

NEHRU: Yes, I first met Mahatma Gandhi upon his return to India from South Africa at a meeting of the Congress in Lucknow in 1916. I have had the privilege of working closely with Gandhi since then. He is truly a pilgrim on his quest of Truth—quiet, peaceful, determined, and fearless. The leader raised up for such a time as this.

DEFENSE #6: Mr. Nehru, do you agree with Gandhi's political beliefs?

NEHRU: Mahatma Gandhi and I are working for the same end, which would be the complete independence of India and secession from the empire of Great Britain. I am a devoted friend and confidant, and I seek his wisdom and leadership, but at the same time I would not have you believe that Gandhi and I agree politically on everything.

DEFENSE #6: Mr. Nehru, did you accompany Mohandas Gandhi on his Salt March to Dandi?

NEHRU: No. When Gandhi told us of his plan to march to Dandi to break the Salt Laws, I was astonished that he chose salt as the symbolic beginning of the coming nonviolent revolution that would free our nation.

DEFENSE #6: Mr. Nehru, did anything happen to you after the Salt Laws were broken?

NEHRU: Yes, I was arrested, along with most of the members of the National Congress Party.

DEFENSE #6: What was the result of your arrest?

NEHRU: I was sentenced to six months on charges of sedition and breaking the Salt Laws.

DEFENSE #6: Do you know what happened to other members of the National Congress Party?

NEHRU: Yes, they all received sentences from six months to two years on the same charges for which I was sentenced.

DEFENSE #6: I have no other questions for Mr. Nehru.

JUDGE: Does the prosecution have questions for Mr. Nehru?

PROSECUTION #6: Yes, we have, Your Honor. Mr. Nehru, Mr. Gandhi told you of his plan to violate the Salt Laws, didn't he?

NEHRU: Yes, he did.

PROSECUTION #6: Nothing further, Your Honor.

JUDGE: Thank you, Mr. Nehru, you may step down. The defense may call its next witness.

DEFENSE #7: Yes, Your Honor. The defense calls Mohandas K. Gandhi.

BAILIFF: Raise your right hand, please. Do you affirm that the testimony you are about to give is the truth, the whole truth, and nothing but the truth?

GANDHI: I do.

JUDGE: Be seated.

DEFENSE #7: Mr. Gandhi, why did you journey to Dandi?

GANDHI: It was my opinion that, in order to throw off the evil rule of the British in India, we had to find some symbol to signal the beginning of our nonviolent revolution to free India.

DEFENSE #7: And salt was the symbol you chose?

GANDHI: Yes. The British government holds a monopoly on the production of salt. It is against the law to make or buy salt from any other source. The law also provides for taxes on all salt. As the Viceroy testified, the average Indian pays a salt tax that amounts to three days' income. The tax is unfair because salt is needed by the peasants much more than it is by the rich man. Salt is a basic necessity and to tax it is inhumane.

DEFENSE #7: Mr. Gandhi, why did you write to the Viceroy on March 2 of this year?

GANDHI: I wrote to Lord Irwin outlining the civil disobedience that I was about to undertake, and asking for an opportunity to sit down with him to talk about the problems that made it necessary to hold this march. I was hoping that Lord Irwin would see the wisdom of trying to solve our problems without my having to resort to disobedience of the laws of India. Lord Irwin refused to see me so I had to lead the march to Dandi.

DEFENSE #7: Why did you feel it necessary to resort to a campaign of non-cooperation with His Majesty's government in India after Lord Irwin's refusal to meet with you?

GANDHI: I hold the British rule in India to be a curse. I fully admit leading the campaign to spread dissatisfaction with the government and encouraging my fellow Indians to reject the system of government we have at this time. I believe that His Majesty's rule has deprived the Indian people of their inalienable rights, their freedom, and the fruits of their toil.

PROSECUTION: Objection. This is irrelevant, and narrative. His Majesty's rule in India is not on trial here.

DEFENSE #7: Your Honor, the defense theory is that Gandhi's actions were justified. His motivations are extremely relevant to his defense.

JUDGE: Overruled. Please attempt to confine your response to the question, however, Mr. Gandhi.

DEFENSE #7: Did you believe you were justified in breaking the British laws?

GANDHI: I believe if any government deprives people of basic rights, then those people have a right to alter or abolish that government. I deliberately broke the Salt Laws; I encouraged my fellow Indians to refuse the rule of the British, and in doing these things I believe that I have fulfilled the highest duty of a good citizen. I do not ask for mercy; I expect to pay the consequences of these deliberate crimes. I also

expect to draw the attention of the entire world to the injustice of His Majesty's rule in India.

DEFENSE #7: No further questions, Your Honor.

JUDGE: Does the prosecution have questions for this witness?

PROSECUTION #7: We do, Your Honor. Mr. Gandhi, did you not demand Lord Irwin reduce the land revenues, military expenditures, and government salaries, discharge all political prisoners, enforce the constitutional guarantees, and abolish the Salt Laws?

GANDHI: I did seek to negotiate with Lord Irwin on these topics. These are among the greatest evils which the British have imposed on India.

PROSECUTION #7: Mr. Gandhi, you led the so-called Salt March to Dandi, didn't you?

GANDHI: I did.

PROSECUTION #7: And you did pick up a lump of salt from the beach of Dandi on the morning of April 6, correct?

GANDHI: Yes.

PROSECUTION #7: And you did pick up other lumps of salt on other occasions between April 6 and your arrest on May 4, didn't you?

GANDHI: I did, on several occasions.

PROSECUTION #7: You did encourage your followers to break the Salt Laws, didn't you?

GANDHI: Yes.

PROSECUTION #7: No further questions.

JUDGE: Does the defense have other witnesses?

DEFENSE #7: No, Your Honor, the defense rests.

JUDGE: Does the prosecution wish to make a closing argument?

PROSECUTION #8: We do, Your Honor.

JUDGE: You may proceed.

CLOSING REMARKS BY THE PROSECUTION: Your Honor, members of the jury. This case is simply about the rule of law. The laws of British India regulate the production and gathering of salt for the benefit of the entire nation. The defendant broke these laws. Mr. Gandhi's own words in his letter to Viceroy Irwin show that he intended to break the laws. Madame Naidu, an eyewitness to the march, told you that Gandhi was indeed the person who picked up salt on the beach at Dandi. Madame Naidu admitted Gandhi planned and encouraged her to lead the assault on the Dharsana Salt Work. Sgt. Major Smythe told you how the collection of the salt taxes was brought to a virtual standstill by the act of civil disobedience planned and led by Gandhi. Gandhi himself told you he intended to break the Salt Laws to coerce and embarrass the Viceroy and His Majesty's government. Gandhi admitted leading the Salt March, admitted picking up salt at various times during the month of April, and admitted encouraging his disciples to do the same things. You need consider no other facts. If, however, other facts were needed, Mr. Nehru confirmed Gandhi intended to break the Salt Laws.

Ladies and gentlemen of the jury, the testimony of the witnesses proved that Gandhi did break the Salt Laws of British India. The testimony proved he intended to break the law, he individually broke the law, and he encouraged others to rebel against the established authority and break the law. Therefore, once the judge instructs you on the law, you will see you are duty-bound to find the defendant guilty. Ladies and gentlemen of the jury, we thank you for your time and effort in this case and know that you will give proper consideration to the facts and law presented to you and return a verdict of guilty.

JUDGE: Does the defense wish to make a closing argument?

DEFENSE #8: We do, Your Honor.

JUDGE: You may proceed.

DEFENSE #8: Mr. Gandhi has not denied breaking the Salt Laws and encouraging the people of India to do the same. Mohandas Gandhi has told you of his belief that there are certain "natural rights" given to mankind, not by government, but by nature. These natural rights allow each of us to preserve our lives, our liberty and our property, no matter how little. Gandhi and his followers believe their violation of the British government's unjust Salt Laws is similar to the action by patriots in the American colonies dumping tea overboard in Boston harbor to protest the British Parliament's tax on tea.

Gandhi's defense is simply that the British Indian laws are imposed upon an entire nation, unjustly, without representation of the people of India in the governmental process. The government of law that has been established by the British in India serves not the people of India, but the economic needs of the exploiter nation, Great Britain. British rule has made India more helpless than ever and subjected the Indian people to a reign of tyranny, not justice. Gandhi and his followers recognize that, in order to force Great Britain to make changes, the world community must see these injustices against the Indian people. We, therefore, ask you, ladies and gentlemen of the jury, to return a verdict of *not guilty* based upon those rights granted by a higher authority than the British government.

JUDGE: You have heard the evidence in this case. You now must decide whether the Defendant, Mohandas K. Gandhi, is guilty of illegally making salt and/or inciting to riot or sedition. Your duty is to determine the facts from all the evidence you have heard in this case. You must do your duty as jurors regardless of any personal likes or dislikes, opinions, prejudices, emotions, or sympathy. Under our system, the defendant is presumed innocent until you, the jury, are convinced of guilt beyond a reasonable doubt.

It is the prosecution's burden to prove each element of the offense beyond a reasonable doubt. If you believe the facts drawn from the testimony of their witnesses or cross-examination of the defense witnesses prove each element of the charged offenses, then you will find the defendant "guilty." If, on the other hand, you believe that the testimony of the witnesses for the defense or cross-examination of the prosecution witnesses has created a reasonable doubt with regard to any element of the alleged offenses, then you must find the defendant "not guilty." You will make a contribution to the administration of justice by arriving at a just and proper verdict. Bailiff, will you take the jury to the jury room for their deliberations.

BAILIFF: All rise. (lead jury to jury room)

BAILIFF: All rise. (upon the return of the jury)

JUDGE: Please be seated. Have you reached a verdict?

HEAD JUROR: (stand) Yes, Your Honor.

JUDGE: Please read the verdict.

HEAD JUROR: We find the defendant, Mohandas K. Gandhi, GUILTY/NOT GUILTY.

JUDGE: [If "guilty" . . . . Sentencing in this case will be on (date)]. {If "not guilty" . . . . Mr. Gandhi, you are free to go}. The court would like to thank the jury for its deliberations. This Court is adjourned (GAVEL).

THE END

HANDOUT #3
WHAT REALLY HAPPENED

Since this trial never took place, the dialogue has been created to reflect the facts surrounding the Salt March incident and to show how Gandhi and the other witnesses might have reacted and responded. Gandhi had been tried in 1922 on charges of sedition (inciting others to rebel against His Majesty's government through his writings). Gandhi pled guilty to these charges and asked to be given the punishment he deserved. The judge found him guilty and sentenced him to six years in prison (only two years were served because of Gandhi's poor health at the time).

The trial actually gave Gandhi a platform, or a way to call attention to his party's position, and because of that experience, Gandhi's biographers believe that the British government did not want to put Gandhi on trial again under any circumstances. So, when they were forced to arrest him after he announced the raid of the salt deposits at Dharasana, they did not want to give Gandhi a stage to gather the attention and sympathy of the rest of the world. The British government ignored their own established court system and simply imprisoned him under a 1827 law which allowed Gandhi "to suffer imprisonment during the pleasure of the government" without the benefit of trial. (This type of law is precluded in the United States by both the Fifth and Sixth Amendments to the U.S. Constitution which require, respectively, that "no man may be deprived of ...liberty ...without due process of the law" and "in all criminal prosecutions the accused shall enjoy the right to a speedy and public trial by an impartial jury....")

There are few quotations in the text of the trial. The material from the Gandhi letter to Lord Irwin, however, is authentic. Many of the phrases and terms used in the testimony of Nehru, Gandhi, Madame Naidu, and Lord Irwin were taken from transcripts of speeches, letters, and interviews in order to simulate the language each of these historical characters used. While Webb Miller did report the harrowing scene of the Dharasana Salt Works, there is no hard evidence that he accompanied Gandhi on his Salt March to Dandi. Several foreign correspondents made the long trek, and Webb Miller is simply representative of that group, any one of whom could have testified to Gandhi's act.

Judge C.N. Bloomfield was Gandhi's judge at his trial in 1922. All of the witnesses were real people, except for the Sgt. Major who testified to the effects of Gandhi's acts on the collection of the salt taxes. It seems logical that the collection of the salt taxes might have been the assigned tasks for one of the British officials.

Lord Irwin and Mohandas Gandhi were able to sign a pact near the end of 1930 in which the government agreed to allow the free manufacture of salt while Gandhi called off the campaign of civil disobedience which had increased following the infamous Salt March. Also, all of the "salt" prisoners were released from jail by the end of the year.

Even though Gandhi and the National Congress Party had declared January 26, 1930 to be their Independence Day, self-rule was not granted by Great Britain until August 15, 1947. Independence in 1947 resulted in the division of the former colony into two separate countries, India and Pakistan, because the Hindus and Muslims could not agree with each other. The boundaries were drawn largely along religious lines. Outbreaks of violence caused the Hindus to seek refuge in India, where the majority of the people were Hindu. The Muslims escaped from Hindu India to live in Pakistan, where the majority were Moslem. Thousands were killed in the religious rioting and warfare, much to the dismay of Gandhi and his followers.

On January 12, 1948, shortly after his 78th birthday, Gandhi began a final fast, to try to bring an end to the bloodshed between the warring religious groups. For five days he fasted and held prayer meetings in New Delhi. On January 30, he was assassinated by a Hindu fanatic. The person who had devoted his life to teaching nonviolent protest died as a result of violence. Gandhi's influence did not end with his death; many movements for civil rights and independence throughout the world, including the civil rights movement in the United States, can trace their roots to the teachings and philosophy of Mohandas K. Gandhi.

HANDOUT #4
GANDHI'S ARREST WARRANT

"Whereas the Governor in Council views with alarm the activities of Mohandas Karamchand Gandhi, he directs that the said Mohandas Karamchand Gandhi should be placed under restraint under Regulation XXV of 1827, and suffer imprisonment during the pleasure of the government, and that he be immediately removed to the Yeravda Jail."

HANDOUT #5
GANDHI'S LETTER TO LORD IRWIN
(Text compiled from edited material)

Dear Friend:

Before embarking on civil disobedience and taking the risk I have dreaded to take all these years, I would fain approach you and find a way out.

My personal faith is absolutely clear. I cannot intentionally hurt anything that lives, much less fellow human beings, even though they may do the greatest wrong to me and mine. Whilst, therefore, I hold British rule to be a curse, I do not intend harm to a single Englishman or to any legitimate interest he may have in India.

I must not be misunderstood. Though I hold the British rule in India to be a curse, I do not, therefore consider Englishmen in general to be worse than any other people on earth. I have the privilege of claiming many Englishmen as dearest friends. Indeed much that I have learnt of the evil of British rule is due to the writings of frank and courageous Englishmen who have not hesitated to tell the unpalatable truth about that rule. . .

I know that in embarking on nonviolence I shall be running what might be termed a mad risk, but the victories of truth have never been won without risks, often of the gravest character. Conversion of a nation that has consciously or unconsciously preyed upon another, far more numerous, far more ancient and no less cultured than itself, is worth any amount of risk. . .

Why? . . . It has impoverished the dumb millions by a system of progressive exploitation and by a ruinous, expensive military and civil administration which the country can never afford.

It has reduced us politically to serfdom. It has sapped the foundations of our culture. And by the policy of cruel disarmament, it has degraded us spiritually. I fear there never has been intention of granting Dominion Status to India in the immediate future.

The inequities are maintained to carry on a foreign administration, demonstrably the most expensive in the world. Take your own salary. It is over 21,000 rupees ($7,000) per month, besides many other indirect additions. You are getting over 700 rupees a day, against India's average income of less than two annas (4 cents) per day. Thus you are getting over 5,000 times India's average income. . .

On bended knee, I ask you to ponder over this phenomenon. I have taken a personal illustration to drive home a painful truth. I have too great a regard for you as a man to wish to hurt your feelings. . . But a system that provides for such an arrangement deserves to be summarily scrapped. . . Nothing but organized nonviolence can check the organized violence of the British Government.

If the Indian people join me, as I expect they will, the sufferings they will undergo, unless the British nation soon retraces its steps, will be enough to melt the stoniest hearts.

But if you cannot see your way to deal with these evils and if my letter makes no appeal to your heart on the eleventh day of this month, I shall proceed with such coworkers of the Ashram as I can take, to disregard the provisions of the Salt Laws.

This letter is not in any way intended as a threat but a simple and sacred duty, peremptory on a civil resister. Therefore, I am having it specially delivered by a young English friend who believes in the Indian cause and is a full believer in non-violence and whom Providence seems to have sent me, as it were, for the very purpose.

Your sincere friend,
M. K. Gandhi

HANDOUT #6
TEACHER RESOURCE: VOCABULARY LIST

These are some of the terms on which you will want to work with your students. Your textbook will contain most of the content terms, but a good dictionary will be a necessary supplement. Black's Law Dictionary may also be utilized for brief explanations of the trial process terms.

CONTENT TERMS

lathis
ban
ashram
dhodi
retaliation
civil disobedience
monopoly
sedition
tyranny
fast
secession
exploit
satyagraha

TRIAL PROCESS TERMS

verdict
justice
redirect
reasonable doubt
burden of proof
justification
hostile witness

HANDOUT #7
BRIEF EXPLANATION OF BRITISH LEGAL SYSTEM

Even though this trial is presented as taking place in a British courtroom according to the British legal system, the trial actually utilizes the principles and practices of the American system of justice.

Certain fundamental principles in the American system are very different from the principles of the British legal system. For example, in Britain there is no presumption of "innocent until proven guilty." The presumption of innocence until proven guilty is the foundation of many aspects of the American system, including bail and double jeopardy.

The presumption of innocence and the prosecution's burden of proving guilt "beyond a reasonable doubt" require the prosecution be allowed to present its case first but also have the final word through the prosecution's ability to have closing argument rebuttal. The American legal system recognizes that the above presumption and burden make the prosecution's task more difficult and therefore the prosecution gets to have the first and last word in a trial. Because of the American legal system's presumption of innocence, if the prosecution does not prove its case, the defense need present no evidence at all and the prosecution is not allowed to suggest that a defendant's decision not to testify in his or her own behalf has any bearing on his or her likely guilt or innocence.

Additionally, on more minor points, in a British courtroom, all the barristers, as well as the judge, would be robed and would wear long white wigs. Further, the witness would not be allowed to sit in the witness chair, but would stand in the "dock" while responding to questions.

Huckleberry Finn's Civil Disobedience

Ruby Peterson
Nampa Junior High Schools
Nampa, Idaho

OVERVIEW

What if Huckleberry Finn had been caught, arrested, and tried for aiding the runaway slave Jim? Was this civil disobedience, ignorance, or simple disregard for the law? Students will read a selection from *The Adventures of Huckleberry Finn*, and then set about determining how this scenario may have been resolved. They will create a scripted mock trial with Huckleberry Finn as the defendant charged with the crime of aiding the runaway slave Jim.

This activity should be preceded with a lesson on mock trials or law-related education to familiarize students with the court system. If not, additional time to acquire this knowledge will be necessary.

OBJECTIVES

As a result of this lesson the students will:

- Develop research skills by discovering what the laws of the United States and the State of Missouri (and other applicable areas) were regarding slavery and Abolitionist activities.
- Develop critical reading and thinking skills in picking out the evidence as presented in the reading selection.
- Develop creative problem-solving skills by creating a scripted mock trial.
- Develop team building skills by working cooperatively with other students.

AUDIENCE

This interdisciplinary lesson is designed for a gifted 7th-8th grade language arts/social studies class. It is also applicable as a curriculum compacting replacement activity for any secondary language arts or social studies class. Curriculum compacting is a method to move students who already know most of the regular curriculum into independent acceleration and/or enrichment. Teachers interested in this strategy will find *Teaching Gifted Kids in the Regular Classroom* by Susan Winsbrenner (see bibliography) an excellent resource.

TIME REQUIRED

This activity could easily require 3-4 weeks, depending upon how in depth it is done. If it is used for a curriculum compacting replacement activity, the students creating the script should present it to the regular class in the form of a mock trial demonstration. Students in the gifted class should also present their mock trial either to other classes in their school or to parents.

PROCEDURE

1. Have students read chapters 7-18 from *The Adventures of Huckleberry Finn*. (This selection is taken from *Junior Great Books, Series 8*, but since it's an excerpt and not a condensation, any copy of the entire book is suitable.) For the teacher's convenience, a summary relevant to this lesson is provided.

2. A thorough discussion of interpretation and inquiry will be helpful to students later as they develop a case based on the evidence.

3. In the gifted 7th-8th grade class, this is designed to be a team activity, and students should be placed in groups of four to six 4-6 students. As a curriculum compacting replacement activity, it could be either a team or independent activity.

4. If working with an attorney, the attorney could help students with any or all of the following:

a. teaching about trial and court systems;

b. serving as a resource about the law, trials, and court systems;

c. serving as the judge in their mock trial demonstration; and

d. assisting in other ways agreeable to all.

5. Working as a team, each group of students will apply creative problem solving skills to:

a. identify the problem.

1. gather evidence from the reading selection;
2. research applicable laws;
3. determine the crimes with which Huck will be charged.

b. brainstorm possible solutions.

1. make no judgments;
2. explore all possible scenarios.

c. explore the consequences of each possible solution.

1. list strengths and weakness of possible scenarios;
2. analyze the possibilities;
3. choose the best solution.

d. write the script and prepare the presentation.

1. continually monitor and evaluate;
2. adjust as necessary;

6. Prepare for the presentation of the mock trial demonstration. Determine who the audience will be and make arrangements for time, location, and equipment. The audience can serve as the jury.

EVALUATION

Formative assessment is ongoing throughout the lesson. Monitor the team skills of respect, cooperation, and responsibility for individual tasks.

Grading and evaluation are two separate issues. Group evaluation is acceptable, group grading is not. If this is being done as a curriculum compacting replacement activity, it is not appropriate to grade, although both formative and summative evaluations and feedback are very important and accountability is essential.

Individual responsibility and contribution to the team can be graded by using predetermined criteria. A sample grading sheet is as follows:

Student responsibilities:

Use this scale to evaluate student's work:
1 (never) - 2 (rarely) - 3 (sometimes) -
4 (usually) - 5 (always)

a. Was the quality of work high?
b. Was work completed on time?
c. Did student participate during discussions?
d. Did student help other group members?
e. Did student exhibit a positive attitude?

The creation of the scenario, the script, and the mock trial demonstration can be evaluated according to the depth of the lesson as determined by the teacher at the beginning of the activity. A sample evaluation is as follows:

20% creativity of the scenario.

20% accuracy of the case based on the evidence from the Huck Finn reading selection.

20% accuracy of the laws used in presentation of the case.

20% the script.

20% the presentation.

DEBRIEFING

If you have an attorney, who can serve a a resource person, this would be an excellent time for the attorney to help in the classroom with a discussion of the case, the scenarios scripted, and the jury decision.

The students will write a 250 to 500-word reflection paper. The paper should address what the students liked or disliked about the activity and why, problems that were encountered and how they were solved, and suggestions about future use of this activity.

BIBLIOGRAPHY

Winebrenner, Susan. *Teaching Gifted Kids in the Regular Classroom.* Free Spirit Publishing Inc. 1992.

A Summary of Relevant Portions of Mark Twain's *Huckleberry Finn*

Unhappy with a father who beats him, Huck Finn decides to escape by faking his own death. While locked in the cabin by his father, Huck saws his way out and scatters the blood of a pig around the cabin to make it look as if he has been murdered. Huck then takes a canoe and paddles to Jackson's Island in the middle of the river.

After three days on the island, Huck discovers that he is not alone. A slave, Jim, is also camping out on the island. After Huck surprises Jim and convinces him that he is alive and not a ghost, Jim admits that he has "run off." Jim overheard the lady who owned him talking about selling Jim for $800. Huck promises not to tell about Jim's whereabouts, in spite of the fact that people will call him a "low-down Abolitionist."

Huck and Jim move into a cave in a high bluff, where they are sheltered from storms and hidden from people. Huck goes into town pretending to be a girl (complete with sunbonnet and calico gown), and finds out that the townspeople think that the runaway slave Jim killed Huck. There is a $300 reward out for Jim. Having seen smoke coming from Jackson's Island, the townspeople are going to the island that night to see if Jim is hiding there. Huck hurries back to the island to warn Jim. Saying "they're after us," Huck wakes Jim and the two slip away down the river on a raft they found.

They travel for five nights to St. Louis, where Huck goes ashore. He buys staples, "lifts a chicken," and "borrows a watermelon." Following a thunderstorm several nights later, Huck and Jim find and explore a wrecked steamboat. They come upon men who were stealing things from the steamboat. The boys' raft breaks loose, so they take the men's skiff for themselves, leaving the men to die. Later they come upon their raft, and Huck's conscience begins to bother him, so he decides to help the men they stranded on the wrecked steamboat. He tells the watchman on a ferryboat that the niece of a wealthy man is on board the steamboat to try to get the man to help whoever might still be alive. The steamboat later floats down the river in deep water, and the ferryboat apparently makes an unsuccessful attempt to find bodies on board. When the ferryboat leaves, Huck also looks for survivors, but finds no one.

Huck and Jim plan to reach Cairo, Illinois, where they can pick up the Ohio River and travel north to the free states. They run into some trouble when their raft is pulled along by a strong current, tearing out by the roots a tree they had tied the raft to. Jim and the raft are lost in the fog, and he and Huck are separated for several hours. When the fog clears, Huck finds the raft and plays a trick on Jim by quietly sneaking on board and pretending that he had been on board all along. He tells Jim that he had dreamed the whole experience of being lost in the fog. When Jim finally realizes that Huck tricked him and made him feel foolish, he is deeply hurt. Huck apologizes and promises there will be no more "mean tricks."

As they get nearer to Cairo, Jim's excitement grows, but Huck becomes increasingly uneasy. Huck is painfully aware that he is helping a slave escape to freedom, and he does not think this is fair to Jim's owner. Huck decides to take the canoe and turn Jim in. Unaware of Huck's intentions, Jim helps Huck prepare and tells Huck that he is the best friend he has ever had. This bothers Huck, but he still feels he must turn Jim in. However, when two men in a skiff come along, Huck weakens. He tells them that his family on the raft is sick with smallpox. Out of guilt the men each give him $20 and leave in a hurry. Huck feels bad for having done "wrong," but thinks he would have felt just as bad if he had turned Jim in and done "the right thing." He decides that the next time he will do whatever is the "handiest."

Here A Right, There A Right, Everywhere A Right, Right!

Joel Glazier
Gunning Bedford Middle School
Delaware City, Delaware

INTRODUCTION

Middle school students do not often ponder their basic human rights. However, "**I have a right to ...**" is a common expression among active teenagers. This lesson will introduce "rights loving" students to the Universal Declaration of Human Rights (UDHR), the document set forth by the nations of the world after the horrors of World War II became known. Comparisons with our own Bill of Rights will reinforce some of the rights in that document. Students should have some prior familiarity with the United States Constitution and Bill of Rights.

OBJECTIVES

As a result of this lesson students will:

- Be aware of rights outlined in the Universal Declaration of Human Rights (UDHR).
- Be able to compare rights guaranteed in the U.S. Bill of Rights with those mentioned in the UDHR.
- Be familiar with the vocabulary of human rights documents.
- Examine their own beliefs about which human rights should be guaranteed by governments.

GRADE LEVEL

This lesson is appropriate for middle school and can be modified for high school grades. Social studies, reading, and language arts classes can utilize this lesson.

TIME REQUIRED

One to two 45-minute class periods.

MATERIALS

- Copy of Bill of Rights (provided by teacher or student texts).
- Handout #I-Copy of the **Universal Declaration of Human Rights**.
- Handout #2-**Colloquial version of the UDHR**.
- Handout #3-**Rights Checklist**.

PROCEDURE

To begin a brief discussion on rights, ask students what rights they think they have as students, minors, and citizens. Write a few of their responses on board.

Distribute copies of **Bill of Rights**.

Distribute copies of **UDHR** (long version and colloquial version).

Have students scan the documents for a few minutes. Clarification questions of some of the terminology should be encouraged and answered. Those students who feel able can utilize the original (long) version of the UDHR copy. If necessary, use class time to clarify confusing terms in the Bill of Rights, too.

Either individually or in small groups, have students complete the **Rights Checklist** as directed. Note that most of the listed rights are included in the UDHR and few are included in the Bill of Rights. Some items, especially #5, #8, and #16 may seem ambiguous and there will be disagreement as to whether those rights are included in the documents.

When students are done (and it can be completed as an out of class assignment), solicit responses aloud. Encourage discussion if there are various answers given to the same item. Let students defend their choices and encourage changes if a better (more correct) response is shared aloud.

Emphasize that disagreements often occur over the meaning or interpretation of rights or written laws.

EVALUATION

If done individually, completion of worksheet shows student thought about rights and interaction with the two documents.

If done in groups, circulate among class and observe intergroup discussion and/or disagreements about rights.

Encourage active discussion as whole class compares their responses. Include oral responses from everyone.

DEBRIEFING

Generate class discussion of which rights may seem most "important."

Discuss differences, within class, of why some felt certain rights should be guaranteed and some not.

Solicit suggestions about any rights not listed but students wish to discuss.

Discuss what can people do if any of the listed rights are violated? This can lead to a unit on the court system, petitions, and letter writing to world and national government leaders.

Discuss why our Bill of Rights seems limited in scope compared with the UDHR. Involve the idea of "universal," amendments, and dates of each document's ratification, and introduce terms of ratify, treaty, declaration, and laws/statutes. Compare and contrast enforcements of documents, treaties, etc., depending upon the abilities and scope of your class and lesson.

Depending on student needs and abilities, use the reverse side of the Rights Checklist for short essays or paragraphs in which students can write their opinions about the discussed above; for graphically-oriented students have students illustrate some of the rights.

Invite students, individually or in small groups, to come up with five rights they would add to our Bill of Rights. Have the students or groups share their suggestions and engage the whole class to then pick only five for the whole class. This extension could go on as a debate activity with students defending their favorite five or in written form with essays created to favor or oppose the array of rights suggested from the whole class.

The class can negotiate after debate or reading essays which five rights should be added. Agreement can be by majority, plurality, or consensus. The class decides the rules.

An extension may lead to further research, discussion or inquiry into civil/political and economic/social rights. Documents can be analyzed for categorizing into these areas.

TIPS FOR THE TEACHER

This lesson is a good one to use at any time but takes on added interest in early December for Human Rights Day (10th) or Bill of Rights Day (15th). In schools with culturally diverse populations, December can be a stressful time for non-Christians as Christmas dominates the media and malls. This lesson in December allows for consideration of personal rights and differences and can emphasize inclusion.

Using a newspaper to highlight the relevance of guaranteed rights might make the lesson and ideas of rights more credible, as there are constantly news stories (unfortunately) about human rights violations in the world and local court cases exist only due to our Bill of Rights guarantees.

Human rights activities based on the UDHR are available from the United Nations (UN Plaza; New York, NY 10017) and Amnesty International USA (53 W. Jackson, #1162; Chicago, IL 60604). Amnesty International also has an excellent animated video on the UDHR which is good to use prior to or after this lesson.

While a familiarity with the Bill of Rights is often assumed by the time students reach middle school, this lesson can be prefaced by having an in-depth reading/discussion of that document. Condensed versions of the Bill of Rights can often be found in social studies texts for elementary and middle school grades.

BIBLIOGRAPHY

Fernekes, William R., *UDHR and the U.S. Constitution*, San Francisco, California; Amnesty International USA's Human Rights Educators Steering Committee, 1988.

Shiman, David, *Teaching About Human Rights*, Denver, Colorado: Center for Teaching International Relations, 1988.

HANDOUT #3
RIGHTS CHECKLIST

Directions: For each right listed below, determine whether it is included in the "Universal Declaration of Human Rights" (Column 1) and the U.S. Bill of Rights (Column 2). Put the number of the article or amendment that you think includes these rights in the appropriate columns. In Column 3, indicate with a "yes" or "no" whether you think this right should be guaranteed by all governments.

RIGHT	Included in Universal Declaration of Human Rights	Included in U.S. Bill of Rights	Should be guaranteed by all governments
Free choice of employment			
Free press			
Free choice of spouse			
Adequate shelter			
Earn as much as one wants			
Trial by jury			
Free choice of number of children			
Freedom from torture and inhumane treatment			
Freedom of religion			
Own property			
Travel freely			
An education			
Own arms			
Adequate food			
Adequate health care			
Clean air and water			

Universal Declaration of Human Rights

This declaration was the work of the United Nations Commission on Human Rights, which met in January 1947 under the chairmanship of Mrs. Franklin D. Roosevelt. The Universal Declaration of Human Rights adopted and proclaimed by the General Assembly on December 10, 1948.

Preamble

- Whereas recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice, and peace in the world,
- Whereas disregard and contempt for human rights have resulted in barbarous acts which have outraged the conscience of mankind, and the advent of a world in which human beings shall enjoy freedom of speech and belief and freedom from fear and want has been proclaimed as the highest aspiration of the common people,
- Whereas it is essential, if man is not to be compelled to have recourse, as a last resort, to rebellion against tyranny and oppression, that human right should be protected by the rule of law,
- Whereas the people of the United Nations have in the Charter rearmed their faith in fundamental human rights, in the dignity and worth of the human person and in the equal rights of men and women and have determined to promote social progress and better standards of life in larger freedom,
- Whereas Member States have pledged themselves to achieve, in cooperation with the United Nations, the promotion of universal respect for and observance of human rights and fundamental freedoms,
- Whereas a common understanding of these rights and freedoms is of the greatest importance for the full realization of this pledge,
- Now, therefore, The General Assembly proclaims this Universal Declaration of Human Rights as a common standard of achievement for all peoples and all nations, to the end that every individual and every organ of society, keeping this Declaration constantly in mind, shall strive by teaching and education to promote respect for these rights and freedoms and by progressive measures, national and international to secure their universal and effective recognition and observance, both among the peoples of Member States themselves and among, the peoples of territories under their jurisdiction.

Article 1: All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.

Article 2: Everyone is entitled to all the rights and freedoms set forth in this declaration, without distinction of any kind, such as race, colour, sex. language, religion, political or other opinion, national or social origin, property, birth or other status. Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, trust, non-self-governing or under any other limitation of sovereignty.

Article 3: Everyone has the right to life, liberty and the security of person.

Article 4: No one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms.

Article 5: No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

Article 6: Everyone has the right to recognition everywhere as a person before the law.

Article 7: All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination.

Article 8: Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental right granted him by the constitution or by law.

Article 9: No one shall be subject to arbitrary arrest. detention or exile.

Article 10: Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal in the determination of his rights and obligations and of any criminal charge against him.

Article 11: 1) Everyone charged with a penal offense has the right to be presumed innocent until proved guilty according to law in a public trial at which he had all the guarantees necessary for his defense. 2) No one shall be held guilty of any penal offense on account of any act or omission which did not constitute a penal offense under national or international law, at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time the penal offense was committed.

Article 12: No one shall be subject to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honour and reputation. Everyone has the right to the protection of the law against such interference or attacks.

Article 13: 1) Everyone has the right to freedom of movement and residence within the borders of each state. 2) Everyone has the right to leave any country, including his own, and to return to his country.

Article 14: 1) Everyone has the right to seek and to enjoy in other countries asylum from persecution. 2) This right may not be invoked in the case of prosecution genuinely arising from non-political crimes or from acts contrary to the purposes and principles of the United Nations.

Article 15: 1) Everyone has the right to a nationality. 2) No one shall be arbitrarily deprived of his nationality nor denied the right to change his nationality.

Article 16: 1) Men and women of full age, without any limitation due to race, nationality or religion, have the right to marry and to found a family. They are entitled to equal rights as to marriage, during marriage and at its dissolution. 2) Marriage shall be entered into only with the free and full consent of the intending parties. 3) The family is the natural and fundamental group unit of society and is entitled to protection by society and the State.

Article 17: 1) Everyone has the right to own property alone as well as in association with others. 2) No one shall be arbitrarily deprived of his property.

Article 18: Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.

Article 19: Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.

Article 20: 1) Everyone has the right to freedom of peaceful assembly and association. 2) No one may be compelled to belong to an association.

Article 21: 1) Everyone has the right to take part in the government of his country, directly or through freely chosen representatives. 2) Everyone has the right of equal access to public service in his country. 3) The will of the people shall be basis of the authority of government; this will shall be expressed in the periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures.

Article 22: Everyone, as a member of society, has the right to social security and is entitled to realization, through national effort and international co-operation and in accordance with the organization and resources of each State of the economic, social and cultural rights indispensable for his dignity and the free development of his personality.

Article 23: 1) Everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment. 2) Everyone, without any discrimination, has the right to equal pay for equal work. 3) Everyone who works has the right to just and favourable renumeration ensuring for himself and his family an existence worthy of human dignity, and supplemented, if necessary, by other means of social protection. 4) Everyone has the right to form and to join trade for the protection of his interests.

Article 24: Everyone has the right to rest and leisure including reasonable limitation of working hours and periodic holidays with pay.

Universal Declaration of Human Rights
continued

Article 25: 1) Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control. 2) Motherhood and childhood are entitled to special care and assistance. All children, whether born in or out of wedlock, shall enjoy the same social protection.

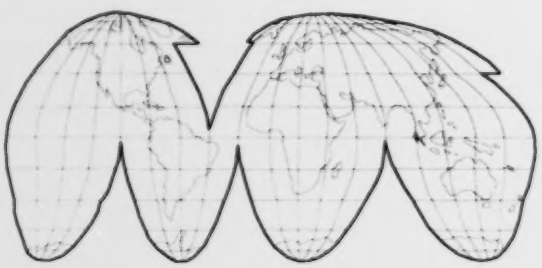
Article 26: 1) Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory. Technical and professional education shall be made generally available and higher education shall be equally accessible to all on the basis of merit. 2) Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms. It shall promote understanding, tolerance and friendship among all nations, racial or religious groups, and shall further the activities of the United Nations for the maintenance of peace. 3) Parents have a prior right to choose the kind of education that shall be given to their children.

Article 27: 1) Everyone has the right freely to participate in the cultural life of the community, to enjoy the arts and to share in scientific advancement and its benefits. 2) Everyone has the right to the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author.

Article 28: Everyone is entitled to a social and international order in which the rights and freedoms set forth in this Declaration can be fully realized.

Article 29: 1) Everyone has duties to the community in which alone the free and full development of his personality is possible. 2) In the exercise of his rights and freedoms, everyone shall be subject only to such limitations as are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society. 3) These rights and freedoms may in no case be exercised contrary to the purposes and principles of the United Nations.

Article 30: Nothing in this Declaration may be interpreted as implying for any State, group or persons any right to engage in any activity or to perform any act aimed at the destruction of any of the rights and freedoms set forth herein.



Universal Declaration of Human Rights
Colloquial Version (Amnesty International, USA)

Article 1: All human beings are born free and equal. You are worth the same, and have the same rights, as everyone else. You are born with the ability to think and to know right from wrong, and should act toward others in a spirit of friendliness.

Article 2: Everyone should have all the rights and freedoms in this statement, no matter what race, sex, or color he or she may be. It shouldn't matter where you were born, what language you speak, what religion you are, what political opinions you have, or whether you're rich or poor. Everyone should have all of the rights in this statement.

Article 3: Everyone has the right to live, to be free, and to feel safe.

Article 4: No one should be held in slavery for any reason. The buying and selling of human beings should be prevented at all times.

Article 5: No one shall be put through torture, or any other treatment or punishment that is cruel, or makes him or her feel less than human.

Article 6: Everyone has the right to be accepted everywhere as a person, according to law.

Article 7: You have the right to be treated equally by the law, and to have the same protection under the law as anyone else. Everyone should have protection from being treated in ways that go against this document, and from having anyone cause others to go against the rights in this document.

Article 8: If your rights under the law are violated, you should have the right to fair and skillful judges who will see that justice is done.

Article 9: No one shall be arrested, held in jail, or thrown and kept out of his or her country for no good reason.

Article 10: You have the same right as anyone else to a fair and public hearing by courts that will be open-minded and free to make their own decisions if you are ever accused of breaking the law, or if you have to go to court for some other reason.

Article 11: 1) If you are blamed for a crime, you have the right to be thought of as innocent until you are proven guilty, according to the law, in a fair and public trial where you have the basic things you need to defend yourself. 2) No one shall be punished for anything that was not illegal when it happened. Nor can anyone be given a greater punishment than the one that applied when the crime was committed.

Article 12: No one has the right to butt-in to your privacy, home, or mail, or to attack your honesty and self-respect for no good reason. Everyone has the right to have the law protect him or her against all such meddling or attacks.

Article 13: 1) Within any country you have the right to go and live where you want. 2) You have the right to leave any country, including your own, and return to it when you want.

Article 14: 1) Everyone has the right to seek shelter from harassment in another country. 2) This right does not apply in cases where the person has done something against the law that has nothing to do with politics, or when she or he has done something that is against what the United Nations is all about.

Article 15: 1) You have a right to a country where you're from. 2) No one should be able to take you away from, or stop you from changing your country for no good reason.

Article 16: 1) Grown men and women have the right to marry and start a family, without anyone trying to stop them or make it hard because of their race, country, or religion. Both parties have equal rights in getting married, during the marriage, and if and when they decide to end it. 2) A marriage shall take place only with the agreement of the couple. 3) The family is the basic part of society, and should be protected by it.

Article 17: 1) Everyone has the right to have belongings that they can keep alone, or share with other people. 2) No one has the right to take your things away from you for no good reason.

Article 18: You have the right to believe the things you want to believe, to have ideas about right and wrong, and to believe in any religion you want. This includes the right to change your religion if you want, and to practice it without anybody interfering.

Universal Declaration of Human Rights
Colloquial Version, continued

Article 19: You have the right to tell people how you feel about things without being told that you have to keep quiet. You have the right to read the newspaper or listen to the radio without someone trying to stop you, no matter where you live. Finally, you have the right to print your opinions in a newspaper or magazine and to send them anywhere without having someone try to stop you.

Article 20: 1) You have the right to gather peacefully with people, and to be with anyone you want. 2) No one can force you to join or belong to any group.

Article 21: 1) You have the right to be part of your government by being in it, or choosing the people who are in fair elections. 2) Everyone has the right to serve her or his country in some way. 3) The first job of any government is to do what its people want it to do. This means you have the right to have elections every so often, where each person's vote counts the same, and where everyone's vote is his or her own business.

Article 22: Everyone, as a person on this planet, has the right to have her or his basic needs met, and should have whatever it takes to live with pride, and become the person he or she wants to be. Every country or group of countries should do everything they possibly can to make this happen.

Article 23: 1) You have the right to work and to choose your job, to have fair and safe working conditions, and to be protected against not having work. 2) You have the right to the same pay as anyone else who does the same work, without anyone playing favorites. 3) You have the right to decent pay so that you and your family can get by with pride. That means that if you don't get paid enough to do that, you should get other kinds of help. 4) You have the right to form or be part of a union that will serve and protect your interests.

Article 24: Everyone has the right to rest and relaxation, which includes limiting the number of hours he or she has to work, and allowing for holidays with pay once in a while.

Article 25: You have the right to have what you need to live a decent life, including food, clothes, a home, and medical care for you and your family. You have the right to get help from society if you're sick or unable to work, if you're older or a widow, or if you're in any other kind of situation that keeps you from working through no fault of your own.

Article 26: 1) Everyone has the right to an education. It should be free of charge, and should be required for all, at least in the early years. Later education for jobs and college has to be there for anyone who wants it and is able to do it. 2) The idea of education is to help people become the best they can be. It should teach them to respect and understand each other, and to be kind to everyone, no matter who they are or where they are from. Education should help to promote the activities of the United Nations in an effort to create a peaceful world.

Article 27: 1) You have the right to join in and be part of the world of art, music, and books. You have the right to enjoy the arts, and to share in the advantages that come from new discoveries in the sciences. 2) You have the right to get the credit and any profit that comes from something that you have written, made, or discovered.

Article 28: Everyone has the right to the kind of world where their rights and freedoms, such as the ones in this statement, are respected and made to happen.

Article 29: 1)You have a responsibility to the place you live and the people around you -- we all do. Only by watching out for each other can we each become our individual best. 2) In order to be free, there have to be laws and limits that respect everyone's rights, meet our sense of right and wrong, and keep the peace in a world where we all play an active part. 3) Nobody should use her or his freedom to go against what the United Nations is all about.

Article 30: There is nothing in this statement that says that anybody has the right to do anything that would weaken or take away these rights.

The Trial of John Adams, Sam Adams, Thomas Jefferson, and John Dickinson

Gary Huggett
Kingswood Regional Middle School
Wolfeboro, New Hampshire

INTRODUCTION

You can use this unit as a culmination of a discussion of the conflicts that led to the American Revolution or as as a separate unit.

There are many mock trials you can choose to reach the teaching objective of having the students learn about the causes and the legalities of the beginnings of the Revolutionary War. I chose John Adams, Sam Adams, Thomas Jefferson, and John Dickinson because they were the authors of the *Declaration of Causes to Take Up Arms* that was drafted at the Second Continental Congress. This would enable the students to get into the issues but in a more clearly defined way. Since most eighth graders are making the leap from concrete to abstract, there have to be some limits placed, otherwise the students will go off in the more concrete tangential directions and not reach the concepts you want them to reach.

It is important to have the students spend a lot of time becoming an embodiment of the witnesses. When you have students who have "become" that witness, learning takes place at a much deeper level, especially compared to regular lecturing.

Historical mock trials facilitate learning on two levels. The first of these is the learning in depth about these famous witnesses. You cannot help but learn these men and/or women with a sense of urgency when you are either preparing to be them, doing a direct examination of them, or especially a cross-examination of them. The level of preparation and involvement goes up 200% when they see a successful cross-examination of a witness. I continue to see marginally academically-involved students get intensely involved in the mock trial process and students who are extremely resistant to speaking in front of anyone turn into confident cross-examining attorneys.

Finally and probably most importantly, I use the mock trial format to look at "the law" and its role in American society then and now. What especially does freedom mean? When is it acceptable or even necessary to rebel? How does this relate to today? How do we change things we don't like? What are the differences and similarities from 1776 to other times in history and today?

OBJECTIVE

The students will gain a deep understanding of the issues that were the major causes of the Revolutionary War. In addition, students will gain multiple perspectives on these issues. Students will also research some of the major personalities of that era to help gain these perspectives. The trial itself will integrate this knowledge and increase their understanding of the legal issues surrounding the concepts of rebellion, freedom, liberty and treason. The skills developed include research skills, looking at both sides of an issue, the ability to think on your feet, and extensive expository writing, among others. Finally the students will relate what they have learned in a historical context to the modern day world.

TOTAL TIME

Approximately 4-6 weeks as a complete discrete unit. If the students have done mock trials before then this can shorten the process considerably. There is a separate package of witness statements that can be used in lieu of the students writing their own.

GRADE LEVEL

Grades 8 and up. This lesson can be easily modified for various learning styles and abilities. It is meant to be used primarily with heterogeneous groups.

PREPARATION

The amount of time spent in background information depends upon whether you have already been studying the events leading up to the Revolutionary War. If you have not, I recommend at least a one-two week time period where the teacher lays the groundwork with lecture, readings, cooperative group activities, etc. This will help their research and trial preparation immensely and allow them to move quickly to get to the more abstract concepts. If your group is predominantly concrete learners, then you should probably narrow your focus to only a couple of the concepts listed in the objectives above. After the groundwork has been laid, the teacher may take the following steps:

Divide the class into prosecution and defense, evening out the relative strengths on each side, both in writing and in verbal proficiency. You may want to wait to do this until the witness statements are done so that the students get a more complete perspective.

Take input from the students as to which of the witnesses they would like to research. For the first trial, I chose the witnesses. An alternative might be that each side does some preliminary research and then chooses who it would like to use as witnesses. My choices were based upon the ability of the witnesses to be able to expound upon the major concepts and that there were adequate resources available so that the students would be able to delve deeply into each person's background, beliefs, and actions. Also, my choices helped to keep the scope somewhat more limited.

After receiving their input, the teacher should then assign at least two people to each witness to go through the following process to prepare statements. (Time: one class period)

(SEE ATTACHMENTS WITH DETAILED INSTRUCTIONS FOR THE FOLLOWING STEPS)

Basic Research: Most of my students have very limited access to outside materials so this was done mainly in the school library and from books that I had obtained from the local libraries in the district. The students need to have a focus for their research otherwise they can easily get off track. I strongly suggest using your media resource person to obtain as many sources as possible so that they are immediately available for the students. Also take time to have a variety of reading levels of books. (Time: three-four class periods plus homework)

Questionnaire Poem: This is an excellent device to help the students focus their attention on the main points they should be looking for. (Time: one-two class periods including homework) The first four questions are standard and were developed by Ms. Carol Bearse, who was a poet in residence in the schools of Newton, Massachusetts.

Interior Monologue: This a literary device to enable the students to really get into the mind of the person that they are researching. It involves picking a particular place and time and having the student write what is going through the mind of that person at that particular time. (Time: two-three class periods including class revision time)

Rough Draft of Witness Statement: The students should be shown how to take the information in their poem and transfer it to a witness statement. Above all, they should be encouraged to breathe some life into the statement so that the students can more easily get into the role. (Time: two-three class periods including class revision time)

Individual Final Drafts of Witness Statements: This is an important part of the assessment and evaluation process, especially in evaluating writing skills. They need to be corrected, graded and returned quickly because they are necessary for the final product. (Time: one class period)

Final Witness Statements -- Editing Teams: (See instructions) I suggest you choose no more than three per team, otherwise it can get unwieldy. The teacher has to be available for support to copy the statement to be used as a base. If you are doing this with more than one class, you may choose the base statement. (Time: one-three class periods)

Once you have the final witness statements, distribute copies of each to all of the students. Then have the students decide, within their prosecution and defense teams, which of them will do what. I've also found it very helpful to have students prepare a direct and cross-examination of a sample witness as a

demonstration for each of the classes. This is where an attorney resource person should be in the classroom as much as possible, explaining the procedure and showing the students how to do a simple direct and cross-examination. (Time: one-two class periods)

The next step is to make sure the students are clear about what the theory of the case is for each side. I take time during the above process after I have handed out the initial sheets and before we do the questionnaire poems to figure out in small groups and then as a class what each side is going to need to establish in order to prove their case.

Before they write their witness statements, we go through the theory point by point and decide which of the witnesses will have something to say on that point. We then take time again to refer to it before we start practicing direct and cross-examinations. Before we start practicing direct examinations, each attorney witness combination must put up on the board what purposes or objectives they want to achieve with this witness. After the examination we review as a class whether they have achieved their objectives on direct examination. We repeat this process for cross-examinations, also. The students need this focus and feedback to determine whether they are succeeding or not. (Time: one-two class periods)

We then start practicing direct and cross-examinations and closing and opening arguments in class with written feedback from all of the other students. It is important that you keep the theory of the case in front of the students at all times. I have found it very helpful to check the written comments of the other students once in a while and review them with the class. The comments also should be signed by the student writing them; this gives the recipient the opportunity to clarify any points made. (Time: eight-ten class periods for a class that has never done a mock trial before)

I also give the prosecution and defense teams the opportunity to get together about once every other period to adjust their strategy, change a role if need be, give extra help to a struggling attorney or witness on their side, etc. We then have a complete trial after about two weeks of practice, with the final trials a week or so away. The students need to have the entire trial more than once to put the experience in context. The final trial should be a big production in front of the entire team or school with a jury. (Time: two-four class periods)

Wearing period costume when they do the final trial is another way of helping the students get into their roles. I also make sure I obtain an outside attorney to act as a judge for the final trial. Videotaping is an imperative, as the students want to see how they performed.

EVALUATION

Evaluation is done on a continual basis, both in completing homework on the written work, quality of research, improvement in performance as a witness or attorney etc. as we practice their trial performance in class. My rule of thumb is that I expect at least a 10% improvement in their performance as a witness or attorney each time they practice in front of the class. The more specific you make the standards the easier it is for the students to live up to them.

As we go along in the practices, I allow the students to use fewer and fewer notes. For example, witnesses go from having their witness statement in front of them to one note card to nothing. By the end of the process, attorneys are allowed only one sheet of paper. During the practices, I allow open objections from the rest of the students so we start to hone their technical skills. There is the opportunity to assess at least three distinct writing assignments as well as the oral performance.

DEBRIEFING

I prepare a written summary sheet that the students fill out at least a day after the final trial as to why they think we did the unit, what they got out of it, and what they enjoyed or didn't enjoy about the whole process. Since my overall theme for my teaching this year is freedom, we will spend time writing and discussing what we learned and how it is relevant to freedom and the world today. (Time: two-three class periods)

BIBLIOGRAPHY

There is no special bibliography. I used a variety of texts and resources for the research in setting up the trial and the concept. I highly recommend the *"How To" mock trial* packets distributed by various state bar associations.

REVOLUTIONARY WAR SETTING

It is August of 1775 and the Second Continental Congress has just finished its business. The Battles of Lexington and Concord have already happened earlier in the year along with the Battle of Bunker Hill. The Second Congress has issued the Declaration to Arms and the final petition to King George III that he get rid of all the laws that the colonists find objectionable and grant them autonomy. In addition, Congress has officially started the Continental Army and appointed George Washington as the Commander-in-Chief.

King George III is adamant that this and all of the events that have taken place before constitute rebellion and treason against the British government and King of England. He directs that an elite British cavalry regiment headed by Colonel Banastre Tarleton round up and capture as many of the colonial leaders. Colonel Tarleton has done his job well and has been able to capture the following colonial leaders who are to be put on trial for treason against the Crown:

- **John Adams** from Massachusetts.
- **Thomas Jefferson** from Virginia.
- **Samuel Adams** from Massachusetts.
- **John Dickinson** from Delaware.

All four of these gentlemen have signed and helped write the *Declaration of Causes to Take Up Arms*.

All of the defendants will testify in their own behalf. In addition, they have been able to persuade former Prime Minister **Lord Chatham (formerly known as William Pitt)** to testify on their behalf.

In order to dispose of this trial in the most expeditious manner possible and to deal a death blow to the rebellion, even King George III has consented to testify for the prosecution. The list of witnesses for the prosecution is as follows:

- **His Majesty King George III**
- **Lord Frederick North** - Prime Minister of England
- **Thomas Hutchinson** - former Royal Governor of Massachusetts
- **Joseph Galloway** - Delegate to the first Continental Congress from Pennsylvania
- **General Thomas Gage** - Commander of the British troops in the Colonies

Your first task in preparing for this trial will be to read the *Declaration of Causes to Take Up Arms.*

WITNESS RESEARCH FOCUS-REVOLUTIONARY WAR TRIAL

WHEN CONDUCTING YOUR RESEARCH ON THE WITNESS YOU HAVE BEEN ASSIGNED, PLEASE CONCENTRATE ON FINDING OUT THE FOLLOWING INFORMATION.

- What is the basic biographical information about this person, such as date of birth, where is he/she from, family, education, upbringing, other personal data?

- What were his career accomplishments up to November 1775? Was he honored for anything, etc.?

- What part did he play in the events in the conflict between the colonies and Great Britain from 1763 up until the Second Continental Congress?

- What is his position on the major issue of that time, the right of the colonies to protest and then rebel? How does he feel about it? Has he done anything to encourage or deter it? What?

- If your witness is one of the defendants, for what part of the Declaration of Causes to Take up Arms was he responsible? What was the background behind this?

- Will this witness have anything to say as to whether rebelling is legal? When is it legal? When is it not?

QUESTIONNAIRE POEM

Respond, with at least four lines per stanza, to the following questions in poem form for your witness. (Remember: it doesn't have to rhyme). **Think in broad terms.**

- DESCRIBE YOUR EARLY EDUCATION

- WHAT IS YOUR PERMANENT ADDRESS?

- DESCRIBE A CRUCIAL EVENT IN YOUR LIFE (Remember: only up to Nov. 1775).

- AWARDS AND HONORS? (Remember: only up to November 1775)

- WHAT IS YOUR POSITION ON THE COLONIES' "REBELLION"?

INTERIOR MONOLOGUE

An interior monologue is the inner, private voice of a person. The way to write an interior monologue is to:

- Put yourself in the place of the character. You must think and speak as though you were that character.

- Pick a particular event in the book or your historical figure at a particular event and at a particular time.

- Write down in his or her own words what he/she would be thinking and feeling while this event is going on around them.

- In your monologue, build a sense of the situation, remember it is only your voice that we hear. What is happening? What are you seeing or hearing? Describe it. What is going on around you?

- Allow your MIND TO RAMBLE a bit as you go further, the same way your mind does in NORMAL THINKING. You could have memories of the past, speculations of the future, and general reflections. You may have thoughts of personal things such as your loved ones etc.

- THE KEY TO IT ALL IS TO REMAIN INSIDE THE PERSON'S HEAD.

-- YOU ARE THAT PERSON --

WITNESS STATEMENTS

Writing your witness statement is a four-part process that is not as difficult as you think. It will correspond with parts of your questionnaire poem plus your other research on your witness. **The first thing you should remember in writing your rough draft is to write as much as you can in the beginning.** It is a lot easier to edit your statement down from a lot of material than to have to go back and add more information. The whole statement should be written in the first person.

The first part of the statement will begin with a biographical sketch or outline which will correspond with the first three questions of your questionnaire poem. It should begin with "My name is . . . ., I am _____ years old, (Make sure that you use your witness's age in November, 1775). Continue with a description of the kind of man he is and then go into his career. You might say "I am an honorable man," and cite some event in his past that shows that he was an honorable man.

When you are describing your witness's career you should talk about anything that you consider important and that might be relevant to his being on the stand in a trial. What might be especially important are events that relate to his character or personal nature.

In your rough draft, this first part of the witness statement should run between one and three pages depending on your witness. Make sure you include all of the major accomplishments in the witness's career.

The second part of the statement should be a description of the part your witness played in the events leading up to the Second Continental Congress which was just before the time of the trial. The length of this section would depend upon your witness. For some, like both Adamses, it would be extensive; for others, like Pitt, it would be a matter of documenting what he was doing during this period.

The third part of the statement will include your witness's position on the major issues of the day (for example the major issue, the right of the colonists to rebel). This section should not be brief but should if at all possible contain the actual words of your witness. It will relate directly to the fifth part of your Questionnaire Poem. You may wish to interweave this section with the final section.

The final section of your statement should directly relate to where your witness fits in at the trial. What will he testify to? If he is one of the defendants, this is where you need to state what part of the Declaration of Arms he is responsible for. What part of the argument sheets will he testify to and what will he say? How does what he says fit in with the theory of the case for his side?

After we have produced rough drafts, we as a class will edit them and produce final statements. We will then use editing teams to produce one statement for each witness. When we have reached that point, we are then ready to become lawyers and witnesses and start working on the trial itself.

REVISING WITNESS STATEMENTS

WITNESS _____ STUDENT _____
REVISOR _____ DATE _____ DRAFT # ___

- Does the statement flow together? List at least three places where the writer can improve the flow or transition of the statement so it isn't choppy.

- From reading the other person's statement, list briefly (in two paragraphs) what part did witness played in the events of the conflict between the Colonies and England during the years 1763-1775.

- From reading the statement, state clearly the position of the witness on the rights of the colonists to protest and to rebel against the British Government.

If the revisor is unable to discern the answers to these questions, then it is up to the writer to point out to the reader where in the rough draft this information is. If it is not clear then you need to revise a portion of your statement.

FINAL REVISION OF WITNESS STATEMENTS -- EDITING TEAMS

- Pick one of the witness statements to be the base. Pick the one that has the best overall outline and flows together the best.
- Review each of the other statements in detail highlighting important things not mentioned in the first statement or put in a better way.
- Using the original as a base, cut and paste the sections you want to add to the original document.
- Once you have done that, read and edit the new document to make sure that it all fits together. You may have to rewrite parts.
- Make sure that the statement is slanted in its presentation of the facts towards the point of view of the side the witness is on. Be careful that the information is the truth and cannot easily contradict. You may use one of the members to double check any information you are unsure of.
- If possible, designate one person to type up the new statement in the computer room or at home.

DEBRIEF STUDENT _____

REVOLUTIONARY MOCK TRIAL
What did you enjoy the most about the entire unit? Remember the group work on the Revolution, research, Questionnaire Poems, Interior Monologues, trial practice, trials themselves, etc. Why?
What did you enjoy the least about the entire unit? Please be specific as possible in your answer. Why?
Did you enjoy becoming attorneys and witnesses and if so would you like to use this format again? If not, what didn't you like about it?
Any suggestions for improving any part of the unit? Please be specific as possible.

KING GEORGE III

My name is King George III. I am 37 years of age. I am a very honest and patriotic man. Since I was a child, I have been educated to be the King of England. My father, Frederick Louis, Prince of Wales, left my mother when I was very young. My mother raised me and taught me everything I know.

My father died in 1751, but that did not bother me that much because I never really cared for him. My grandfather died in 1760 and I ascended to the throne. I married Charlotte Mecklinburge in 1761. I chose Charlotte because she is the most beautiful woman I could ever have married.

I believe in making my country grow and not fall back into debt. After the French and Indian war we had a large debt in this country. If I had left this debt alone, it would have had damaging effects on England's reputation in the world and our economy. I decided to raise taxes on the colonists since the French and Indian War happened because of the colonists' desire to be in America. I thought it only fair for the people who were the reason for the debt to pay for it.

The Whig Party had to be abolished or they would have ruined this country. I couldn't govern with a leader who had ideas that would have had catastrophic results for England. This leader, William Pitt, was a very mentally unstable person. Although his complete breakdown didn't occur until 1766, I noticed him having terrible ideas for England as far back as 1761. These ideas, if implemented, would have ruined England's economy. Once the party was abolished, our country took a turn for the better and was more open to the needs of the people.

I decided to fight the colonists. I believe England deserves to have control of America. The colonists have no reason to rebel, and they will be punished for what they have done. In March 1775, Parliament passed the Restraining Act. I hoped that this would make the colonists realize that they are not independent and cannot trade with whomever they choose. They must only trade with England -- we helped them get where they are now.

On April 19, 1775, the colonists were disobeying my laws. General Gage made a decision to try to capture Adams and Hancock. This was a good decision but he should have realized that the colonists might fight back. Once he encountered resistance, he should have backed away and tried later. Only an idiot would not realize that the colonists would surround his troops. I believe my wife is capable of making better decisions than Gage. That is quite an insult against Gage considering my wife is a woman. We all know that women cannot make decisions as well as men can.

I can't understand why the colonists are against the throne. All citizens in any other country in the world have to pay taxes to their government. Why do the colonists find that so peculiar? If every other soul in the world can be proud of their country and wants to help out, why can't the colonists do the same?

Not only do I have to put up with the colonists' twisted minds, but I find some of my own English subjects encouraging the rebellious disposition that unhappily exists in some of my colonies in America. This conflict with the colonists has truly drained my energy and wearied my mind. I regret that I am so far away from the battlefields. If only there was another as competent as I to direct my armies, we would have a quick end to it all.

All of the defendants are guilty of causing pain and inflicting bloodshed upon the Crown. Every defendant disagreed with the laws of the government even though the laws were fair and legitimate. They incited others to follow their demented ideas. This has caused wide-spread civil strife against the throne for no reason at all. The defendants have caused some of the colonists to turn against me, their King. They have resorted to childish ideas, like drawing unflattering caricatures of me being an unreasonable, demanding tyrant.

These defendants have even gone so far as to create the treasonous *Declaration of Causes To Take up Arms*. This document threatens their legitimate government with further violence if we continue to treat them as we have. They demand that we treat them better than residents in England. That will not happen.

I have presented to you my history and place in this trial. I have informed you of the defendants' treasonous acts and why they should be punished. These people should be hung for their intolerable acts. Even though hanging them will not completely restore all of the colonists' allegiance, faith, or devotion to their King and England, duty demands no less of us. May we all pray for a return to civility.

WILLIAM PITT

I am William Pitt, Earl of Chatham. I was born in 1708 in Westminster, England. For my early education I attended Eton and later Trinity and Oxford University. I was unable to graduate because of poor health, a problem that has recurred throughout my life. My father was a member of Parliament, which encouraged me to become a politician. I also served in the British Army for four years.

In 1735 I was elected to Parliament. My political career advanced and I became leader of the opposition in 1742. This resulted in my resignation from the House of Commons and becoming paymaster for the army in 1746. I tried hard to gain power for my party but King George II refused to appoint me to office despite my obvious abilities.

In 1754 I took a wife, Hester, one of the Grenville sisters. The Grenvilles were very good friends of mine and of course were well connected politically. In fact Hester's brother later became Prime Minister.

My opportunity to become Prime Minister came during one of England's gravest hours. Our country was losing the French and Indian War (as the colonists called it) and needed a leader to pull it together. With the help of the Almighty, I was that man. I reorganized the army, put new competent generals in command, and used the colonists to help fight back the French and Indians in America. Gradually we were able to turn the tide and eventually defeat them. When we had them completely on the ropes I was forced to resign as Prime Minister in 1761 by King George III because I wanted to attack Spain because they had been helping France. If the King had listened to me, we would have taken care of the French and Spanish forever. We could have gained even more from the war than just Canada.

I am an honest and noble man, but when I know I am right I am not afraid to make things happen or to speak my mind. This is probably why I was in and out of office. I refuse to listen to fools. I became Prime Minister once more because my country needed me but I had to resign in 1767 because I suffered a minor nervous breakdown due to my longstanding bouts with gout. If I had stayed healthy and in office, I would have reformed England's antiquated tax system and I assure you we would not be in the fix we are today with the colonies.

Unfortunately our King is not a far-seeing man and he tolerates no real dissent around him. Lord North is a good man but unfortunately he tells the King what he wants to hear.

I reentered the public stage in 1770, completely recovered from my weakness. I have consistently supported the colonists in their demands for a major say in their own self-government. Some have called me their major advocate in Parliament. It seems as though I am constantly challenging the King's policies in how to treat the Americans. I believe that they should have what Englishmen have -- the right to have a say in their own rule.

I do have to take issue with our friends in the colonies when they destroy property and cause bloodshed. There is almost no justification for that. However the present policy has been so bungled that even a fool could see how it was going to end up. It is past time to really listen to the colonist's complaints and do something about them or we will be faced with a full scale war and the Americas may be lost to England forever.

LORD NORTH

I am Lord Frederick North. I am 43 years of age and I hold the honorable position of Prime Minister of England. I believe I am an honorable man. Some may disagree because they believe I listen to the King far too much. They even go so far as to say I lack character and that I am not my own man. I disagree vehemently with these misguided people. I am obligated to my King and can best serve him as Prime Minister by carrying out his ideas. Others may see the job differently but I am clear on my duty.

I am also known for being highly intelligent and having a quick brain and wit. My good nature has served me well in my government service. I have been known throughout my schooling and career to have displayed "exemplary conduct." As the son of noble birth, I have always known I was raised for success and have succeeded.

I was born in London and grew up in England and was of course schooled here. In 1753 at the age of 21 I married my wonderful wife Anne. Many people might say that she was lacking in beauty but this does not bother me at all. I love her dearly, in fact we are quite famous for our good marital relationship.

I have had much background in government before I took my place as Prime Minister. In fact, I took my very first government position when I was 22. I entered the House of Commons as the representative of the district my family runs. I then moved to the Treasury Department where I served as Junior Lord from 1759 through 1765. I concentrated on finance. This was a very successful spot for me as I am very good with money and anything to do with the economy.

In the period from 1765-1770 the King asked Lord Grenville to be Prime Minister after William Pitt had resigned. When the King decided Grenville could no longer do the job he turned back to Pitt despite his dislike for him. Pitt refused the offer. The Duke of Rockingham took the job for a year and again the King turned to Pitt who this time accepted. Then Pitt fell ill, went insane and in 1770 I was chosen for the position. During the past five years His Majesty has gained trust in my judgment and I have remained one of the most respected men in Parliament.

As Prime Minister, I have been involved in all of the events over the past five years. After all, everything that gets to the King has to go through me. The first major incident I had to deal with was the "Boston Tea Party." It was quite an immature way for the colonists to show that they disagreed with our ideas. It was only a tiny tax on the tea. That's what I have come to expect from the colonists. They cannot deal with anything sensibly. We ask no more of them than we do of other Englishmen, that they pay for the gift of England's protection.

We had to deal with this immature act by clamping down on them just as a parent would discipline an unruly child. That is why we passed the so called Intolerable Acts and the Port Bill closing Boston because the colonists had to be held accountable for their actions. They need to realize that the power is here in England and that they need to obey the laws of Parliament and their King.

The colonists have broken many of the King's laws, especially the destruction of property. The "Boston Tea Party" or crime as I would call it caused a loss of over 75,000 just by itself. The other incidents of loss of property and revenue to the Crown over the past ten years are too numerous to mention.

Violent actions have also been taken against the government. The battles of Lexington and Concord and Bunker Hill are just the culmination of the colonists' illegal and treasonous activities. To shoot down in cold blood the soldiers of your own country, if that is not rebellion and treason, I do not know what is.

What is even more ludicrous is their *Declaration on Causes to Take Up Arms*. A more treasonous document could not be imagined. They insult their government and their King and threaten to take up arms if their demands are not met. They have formed an army and have started a full scale rebellion. It as though a child of three told his parent that he did not like the way the household was being run and threatened to shoot his parents if they didn't let the child run the house. They must be stopped now.

JOHN ADAMS

My name is John Adams. I am 40 years old. I have spent most of the past few years trying to separate the colonies from England. I see myself as an upright straight-forward man. When something is wrong, I am not afraid to address it directly. I was born in Braintree, Massachusetts in 1735 and have lived around Boston all my life. When I was young, I spent my free time making and sailing boats, swimming, flying kites, and shooting. Some say I'm too serious, but the times we live in demand serious men. I went to the Latin school and thought about teaching. I decided to go to Harvard College and received my Bachelor of Arts in 1754. I ranked 14th out of 24.

My father was in local politics as a selectman and encouraged me to follow the path of the law and public service. I passed the bar in 1758 and became a full fledged lawyer. Three years later I married Abigail Smith. She is my alterego and makes me question the accepted wisdom that men are superior to women.

As any good lawyer would do I became involved in Massachusetts politics in the late 1760's. I was nowhere near as active as my cousin Samuel Adams, however, in resisting the wave after wave of oppression and the taxes the British heaped upon us. I was elected to the legislature and began to take more of a leadership role in resisting this oppression.

I bitterly opposed the quartering of British troops in our homes. They were just sent here to enforce the ridiculous taxes that Parliament imposed. It is clear to me that we should have no taxation without full representation. That is what this conflict is all about. We are being put upon by masters that think we have no right or way to fight back. My ancestors came here to be free to do what they chose and to run their lives as they saw fit, not what some Lord 3000 miles away decides.

In 1770 the Boston Massacre occurred. It was the result of the British government sending young untrained troops who panicked at the first real sign of pressure, got frightened, and fired their guns into a group of Boston citizens. Some of my political allies were surprised that I agreed to defend the soldiers. I saw it as nothing less than my duty as an upholder of the rights of all Englishmen to a fair trial. I succeeded in convincing the court to find most of the soldiers innocent. If Josiah Quince and myself had not defended them they would have been killed and the situation would have gotten more out of control. The real instigators of violence were the British officials such as Lord North who sent these troops over here in the first place. We did not ask for them, we did not want or need them. They were used solely to enforce the odious tax laws of a Parliament and a King who would not listen. After defending the British troops I went back to helping "my people." I rejoiced when the tea was dumped into the harbor during the Boston Tea Party. So bold, so daring, intrepid, and flexible.

I was chosen to be a delegate at the First Continental Congress in 1774. There we wrote a petition to the King of our Declaration of Rights and Grievances. We also declared that unless Parliament and the King listened to us we would ban all imports from Great Britain by November. At that point we were still hoping that the government would come to its senses and deal with us. If at anytime they had shown an inclination to sit down and negotiate, then perhaps all of this could be avoided and I could return to my law practice. Instead they sent a General to replace a civilian governor, although to be truthful we in Boston were glad to be rid of that toady Hutchinson.

We then prepared to protect ourselves. We all know the story of Lexington and Concord, of how determined men stood to protect their possessions from the graspings of a government gone mad. What else should the British troops and Gage expect but for the aroused citizens to fire upon them?

Bunker Hill was a battle that did not need to be fought. Once the British had seen our resolve at Lexington and Concord, did they think we would passively leave Boston to be strangled by the Port Bill and left at the mercies of British soldiers? Our militia showed the British what they were made of when they were attacked and made their stand.

At the Second Continental Congress, I played a major part in drafting the *Declaration of Causes to Take up Arms*. It simply states why we can no longer leave ourselves defenseless against a government that does not listen to any of the petitions to correct our just grievances and in fact uses military force totake away the rights we should have not only as Englishmen but also as free men. I admit that I did not support John Dickinson's efforts to make this document one more petition to the King. It seems as though His Majesty has ignored our other pleas, why would he listen to this one? Perhaps now that he has seen the lengths we are prepared to go, he will listen. I doubt it.

THOMAS JEFFERSON

My name is Thomas Jefferson. I am 32 years of age. I was born in Goochland County, Virginia, on April 13, 1743. My mother is Jane Randolph, my father, Colonel Peter Jefferson. I was born into wealth.

I was eager to learn law as a young man. On January 14, 1760 I wrote to the school of William and Mary asking if they would accept me. In March I moved to Williamsburg at age 17. George Wythe helped me study law and helped make me what I am today. I then graduated in 1767. Law would soon become my life. I love science, music, and art. I also enjoy inventing but "politics are my passion." I was admitted to the bar at age 24.

I built a farm in the countryside in Virginia near my birth place. I call the farm Monticello. It consists of 10,000 acres, many livestock, and 200 or more slaves as hands. I dislike slavery and tried to pass laws to abolish it, but they all failed.

I married a beautiful fair lady named Martha Wayles Skelton. I have a lovely daughter named Martha.

I was elected to the House of Burgesses in 1769 and served there until our current year of 1775. When I was elected at age 24 I dealt with a lot of problems the colonies had with England. I dealt with the Stamp Act and the Townshend Acts along with other laws made by Parliament. I was in this group because from the beginning it strongly upheld colonial rights against the British government. In March of 1773 other members of Virginia's anti-British group and I drew up resolves creating the Virginia Committee of Correspondence to keep the secret contact with the Northern colonies.

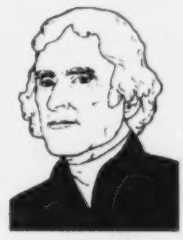
During my stay in the House of Burgesses I was elected to the Continental Congress. I had a reputation as an ardent patriot and an excellent writer. I am brilliant speaker. I know this and so do my peers. They call me the "man of the people." I represented the largest colony. I was not an active leader for the colonies against the British until later when the British actions grew more repressive. I was chosen to write the *Declaration on Causes to Take up Arms*. This document is basically the defense of the preservation of our liberty, being with one mind resolved to die as free men rather than to live as slaves.

I was for the battle of Lexington and Concord and aggressively backed Patrick Henry in his speeches for independence. I feel that getting the chance to stand by Patrick Henry and fight for our freedom using our voices was a true honor for me.

The colonies had every right to take up arms. The British government has been holding us back since we got to this rich land. They have put endless taxes on the colonies; violence is plundered upon us constantly. It can't be our government or our colonies when they hold us back.

"Our cause is just. Our union is perfect. Our internal resources are great and if necessary foreign assistance is undoubtedly attainable. In our own native land in defense of the freedom that is our birth right and which we ever enjoyed till the late violation of it." We must not let our firm grip on the freedom and independence we have left be torn violently away from us. Otherwise we might lose everything that we the colonies of America have worked so hard to get.

I feel we had every right to rebel. The Boston Tea Party was a simple act of expressing our feelings towards the outrageous tax on tea. We could have done much worse, we could have broken out in fierce violence taking down anyone who opposed us. But we took to heart the sovereign King and his government. We knew when enough was enough. It's time the King knew when enough was enough. We've had enough of taxes and enough of being held back. It is time for us to be let go from the mother country.



I feel England brought this whole mess upon itself and should let we the colonies become our own nation of freedom and Independence.

JOHN DICKINSON

My name is John Dickinson and I was born on November 8, 1732 so I am now 43 years old. I was born in Talbot county, Maryland to Samuel and Mary Dickinson.

I am known to by many as the "penman of the revolution" and my nickname is farmer. I am called this because in 1767 and 1768 "Letters from a farmer in Pennsylvania to the inhabitants of the British colonies" were published. I wrote those to stress what my countrymen wanted -- not to separate, but to compromise. My letters were against the new British Parliament but still the countrymen and myself did not want to take up arms. These letters appeared in many colonial newspapers in Britain. Like many other essayists of my time, I portrayed myself as a poorer, older, modest farmer.

Altogether I wrote 12 letters to the King and I think that my point did get across which is -- "let these truths be indelibly impressed on our minds -- that we cannot be free without being secure in our property -- that we cannot be secure without others may as by right take it away -- that taxes imposed on us by Parliament do thus take away -- that duties should be instantly and firmly opposed -- that this opposition can never be effectual unless it is the united effort of these provinces. That councils are essential to the welfare of the whole and lastly, that for this reason, every man amongst is who in any manner would encourage either dissension, difference between these colonies is an enemy to himself and to his country."

On July 9th, 1770, I married into one of the leading Quaker Families.

My wife and mother don't exactly support my idea because they're both Tories. My mother has even said to me "Johnny, you will be hanged, your state will be forfeited and confiscated, you will leave your excellent wife a widow and your charming children orphans, beggars and infamous."

My political career began when I was elected to the Delaware General Assembly in 1760. Later in 1762 and 1764 I was elected to the Pennsylvania legislature and I have held other honorable political offices.

I was a member of many councils. I was on the Stamp Act Council and a delegate to the First and Second Continental Congresses. I wrote a lot of important documents including pieces of the *Declaration of the Causes and Necessity of Taking Up Arms*.

Unlike the other authors of the Declaration of Arms, my part in the Declaration of Taking up Arms is very unoffensive, it explains that England should change a few laws and try not to take total control. I find it unnecessary to have to go to war to gain our independence.

John Adams disagreed and spoke to Congress against my plan. He wants to go right to war and thinks that it would be a waste of time doing it my way. When he left after his speech I followed him and gave him a piece of my mind. John finally did vote in favor of my plan because he knew that was the right thing to do, most of us in the colonies are reasonable men, we just need the King to really listen.

I don't even know why I'm being put on trial for treason. I tried and tried to come to a reconciliation with England. I really tried hard to do it peacefully. I'm not at fault like other people. I wanted it to come to a peaceful agreement while others revolted against them. I think that the taxes are unfair and that we are treated unfairly, but there has to be a better solution than war.

SAMUEL ADAMS

My name is Samuel Adams, a devoted patriot. I am 52 years old and progressing towards freedom every day. I am a leader in the colonists struggle for our rights against England. Although I do not like to speak publicly, my words evoke public response because of my conviction in our cause.

I was born in Boston in 1722 and still reside there. I grew up in a large home, full of children, twelve in all, with parents who loved us immensely. My father, Samuel Adams, was a well-off politician and brewer. It was his interest in politics that sparked my involvement. I am an extraordinarily honest man. I am usually pale and thin, with gray eyes and hands that are never still. Some have called me a rickle of sticks unskillfully assembled.

I attended Harvard at the age of 14. I received my A.B. in 1740 and my Master of Arts three years later. I joined my father in his brewery, which was quite successful. I was also appointed tax collector in Boston. I failed to keep proper accounts and to keep public levies. This led many people to discover my opposition to the taxes of Britain. The event that set off my anti-British feelings was their suppression of the Land Bank, a plan to produce paper money. My father promoted this and when it failed due to the British suppression, it upset me greatly.

In 1749 I married my first wife Elizabeth Checkley. We produced two beautiful children named Samuel and Hannah. Three other children died in infancy. In 1757 Elizabeth died leaving me with the children and a big Newfoundland dog named Queue. I am unable to support my second wife Elizabeth (we married in 1764) and children adequately due to my devotion to the colonial cause of freedom. It is also my misfortune to not have a good mind for business. Luckily, neighbors help us out and provide us with much of our food and clothing.

I am involved in this struggle for freedom because I can express others' feelings. Though some may think me a bloody rebel, others think of me as a hero, someone who will stand up for them against the oppression of British rule. I am acting through my heart and cannot turn back now, even if I wanted to. I want the British officials to realize the suffering and anguish they are putting us (the colonists) through.

Almost everything I have done on the colonists' behalf has been done in response to British oppression. Most of our ancestors traveled far to this continent to be free men. The history of the last twelve years has been the British depriving us of the dream that brought us here.

When one of John Hancock's ships was seized (for no just cause), I did what I thought was necessary. I organized a demonstration and unloaded the ship. When the Townshend Acts burdened us with onerous taxes, I denounced them as taxation without representation. There is no question in my mind that we the colonists have no representation in Parliament to keep the King's ministers from just laying tax upon tax on us. We had to stand up for ourselves. That's why I helped to organize colonial boycotts, to force them to treat us fairly.

We did not want these quarrels to lead to bloodshed. We have tried to avoid it by petitioning the King for help. Has he heard us? His answer has been to send more British troops to make us prisoners in our own homes and in fear of our lives. It is no wonder that we have reacted violently to violence.

In 1773, I participated in the Boston Tea Party which would not have been necessary if that fool Hutchinson had allowed the ships to leave without unloading. No, he had to force the issue and try to make us take this tea that was only being used to line the pockets of few rich Englishmen in the East India Tea Company. The tea tax was only a power play to subvert the rights of the colonists. No wonder we resisted.

In 1774, I was a delegate to the First Continental Congress where we started to unite as a country against the tyranny we were facing. We realized that separately we would get nowhere against the government, but united we might get them to see the light. We were fortunate that the newspapers in England allowed us to air our views. This helped to turn popular sentiment in England in our favor, at least until this new round of violence forced on us at Lexington and Concord and Bunker Hill. We did not want to shed blood, but Gage left us no choice.

The Declaration of Causes to Take up Arms is not an act of treason but rather a strongly worded plea and last petition to the King to give us back our sovereign rights as Englishmen or face the consequences. I admit that I am one of the authors. I wish the King would read this carefully and realize the anger and hostility that has been bred by His actions and that of his ministers. I would not mind being governed by the British just as long as they let us run our own affairs. The government that is over us now is tyrannical and has no regard for us.

THOMAS HUTCHINSON

My name is Thomas Hutchinson and I am 65 years of age. I was born in Boston, Massachusetts. I have been a lifelong supporter of our British government and cannot conceive of any change in it. I have always been known for my intelligence, wit, and physical strength, but most of all I am known for my courage. I refuse to be intimidated by an opposing idea or an angry mob. I sincerely love my native Massachusetts, but I disdain its mobbish people. I consider them ignorant and volatile.

At two months short of 12 years, I entered Harvard where one of my deepest impressions occurred the day I cheated by putting a note into my Latin book I was supposed to translate in class. My instructor noticed my cheating and simply said "a te non expective" -- punishment enough for a young man who had an extraordinary respect for authority.

I married the beautiful Margaret who later died giving birth to our fifth child whom I named Margaret. She helped to ease the loss of her mother. I practiced law and entered the Massachusetts legislature in 1737. I served there mainly until 1749 but was almost continuously in public office until 1774. I often held more than one position at a time. In 1760 I was appointed Chief Justice of the Massachusetts colony.

I used my authority to help the British soldiers seize smuggled goods the colonists tried to hide on their ships. I was opposed by the mobs. Samuel Adams was their leader, but he was a crafty one. He would incite the mob with his speeches and pamphlets, but take no responsibility for their actions and be conveniently out of sight when they ran out of control.

A prime example of this occurred after the Stamp Act was passed by Parliament. I supported Parliament and the King in their efforts to collect taxes when due. I was not pleased with the taxes but felt it was my duty to uphold the law. Adams got the rabble all stirred up -- they were so stirred up that they came to destroy my home and the home of my later Lieutenant Governor and brother-in-law, Andrew Oliver, as well as other prominent Tories. They stoned my house, smashing most of the windows, and then came back two weeks later with the intent of destroying my home. I was sitting at the dinner table with my family when the mob broke into my house. Luckily my family and I were able to escape. The mob completely destroyed the contents of the house including my irreplaceable history of the Massachusetts Bay colony that I had been working on for over 30 years of my life. They then cut down all the trees in the garden and ripped up the flowers and the bushes. Finally, they ripped off parts of the roof and scattered off into the night as creatures of this type do.

After I had the damage figured down to the penny, I asked the Governor for reimbursement. Sam Adams tried to deflect blame from himself by donating a major amount to the fund. However, he would only donate if the Governor signed a paper stating he would only give the money if no one from the mob would be arrested. The Governor agreed.

I was appointed Governor of Massachusetts by the King and was constantly locking horns with both Adams and James Otis. The legislature tried to coerce me by cutting off my salary, but I was able to get around this by getting my money directly from the Crown. This infuriated Sam Adams. The man was impossible to talk to. He and the others just wanted things their way.

A good example of this was the dumping of tea into Boston harbor. Things had quieted down for a while and Adams was just looking for something to get everyone going again. The tax they were to pay was just a penny a pound, much less than any of the taxes that had been put on before by the Stamp Act or the Townshend Acts. Instead, Adams forces me into a confrontation about unloading the tea and then had men dress up as Indians and destroy over $75,000 worth of tea. No wonder the King and Parliament closed the Port of Boston until the tea was paid for. Any right-thinking and law-abiding citizen would have done the same.

Shortly after this I decided to resign as Governor. The mob was out of control. Only British troops would be able to restore order. I welcomed my replacement by General Gage and looked forward to moving to England for my safety and that of my family.

I think that as British citizens, the colonists owe the British government a fair share of monies to pay to support the Empire. I feel the need to defend England in this conflict because of the violence instituted by the mob in Boston and the needless destruction of property. They need to understand that the majority of the people in America want reconciliation, not war. Even John Adams himself has said that only one third of the people in America want to be separated from England. My estimate is much lower. I say only 10% wish to leave the protection of the mother country.

JOSEPH GALLOWAY

My name is Joseph Galloway. I was born in West River, Maryland in the year 1731. I am 44 years old. My mother devoted most of her time to me during my years growing up. Some say this is why I developed a stubborn streak. I say it is a strong trait of my character that I do not give up when I want something and I am not easily dissuaded from my views. This trait has helped me greatly in my legal career. My certainty is useful in persuading others to do something that they aren't sure about.

When I was young my father became a wealthy trader. This new money in the family made it easier for them to raise and spend a good deal of time with me. I became accustomed to wealth as I thus grew up in a wealthy family. I was sent to Princeton which was my father's favorite school. I studied law and graduated to become a very successful lawyer in Philadelphia. I was trying court cases in the Pennsylvania Supreme Court when I was 20. I met, fell in love, and married the lovely Grace. She was in the city for business when I met her. We then made Philadelphia our home.

I was elected to the Pennsylvania Assembly in 1756 and left in 1764. I joined again in 1766 and was truly recognized as a go prominent leader in my state. I left the Assembly to participate in the First Continental Congress.

I was elected to the First Continental Congress and participated fully in it. I am in favor of anything that will help unite the American colonies. In fact, as part of my attendance at this Congress I proposed the Galloway Plan of Union for the colonies. It was a farsighted attempt to deal with the struggle we colonists have been having with the Mother country so that both sides would gain. We as colonists must accept some taxation to pay for the protection of the King and the armies. British merchants must also receive some profit for their shipping. In turn, the mother country must be willing to give the colonies a little more leeway in working together for the common good. It is unfortunate, but my plan failed to pass at that Congress. It might have solved the problems before they got any worse.

The move to violence by some members of that Congress is what concerned me the most. At that First Congress I wrote to Royal Governor Franklin (son of Benjamin): "The people of this providence are changing their ides and conduct very quickly. We have been successful at stopping the attempts of the violent party which is asking the people to prepare for war against the other country. I hate violence and want peace."

I was invited to attend the Second Continental Congress but declined to attend. It had all gone too far. My fears about further violence had been realized. The dream I had of a Union of colonies allied and connected to the mother country was gone for now. Those who attended the Second Congress were hell bent on treason and rebellion. I know those men and especially the defendants on trial here. I was able to thwart their efforts at the first Congress to lead us down the road to rebellion but I knew my voice of reason would not be heard at the Second Congress.

Just look at these men. All of them without exception have long histories of agitation against the Crown. Their agenda is revolution plain and simple. One only has to look at their writings.

THOMAS GAGE

My name is Thomas Gage. I am 54 years old and was born in Firle, England as a member of the English ruling class. Some people know me as a failure as General. I disagree totally. In 1741, I entered the English army as a Lieutenant. I served in Scotland and Flanders. In 1754, I was sent to the New World as Lieutenant under General Edward Braddock. This was during the French and Indian War. I became friends with George Washington and I was known as "Honest Tom."

In 1761, I was chosen a major general and military governor of Montreal. Also in 1763, I was named Commander-in-Chief of the English forces in North America. The colonists came to respect me because I showed great talents as a politician by keeping good order in America.

My headquarters were located in New York. While I was in the area, I met and married Margaret Kemble, who was from a prominent New Jersey family. We had 11 children, ten of whom were born in America. I became an American landowner by purchasing 19,000 acres in New York.

In 1773, I was in England. The tensions worsened back in America between the colonists and Parliament. Due to my absence, the Boston Tea Party occurred. If I had been there, I would have put out the "fire" when it was still small.

After the Tea Party, the King sent me back to punish the colonists for what they did. I returned to Boston as Royal Governor. I replaced Hutchinson who was not able to do what the King wanted him to do, so he stepped down.

I was left the job to enforce the Punitive Acts in 1774, which closed the Port of Boston and demanded repayment in full for the tea. In the meantime, I had to put the colony of Massachusetts under the control of the British Military Commander.

The colonies were not happy. They all (except Georgia) met in Congress at Philadelphia in 1774. They decided to stop all trade with Britain and to resist, if force was used against them. This Congressional meeting was treasonous because it was against the King's laws. I tried to handle the situation diplomatically. My own troops were starting to go against me because I refused to strike the first blow. Instead, I took a strong defensive stance, which I thought was right. I did not want to inflame things further.

In 1774, I had about 3,500 troops in North America. In my opinion, all I needed was 1,500 soldiers but, on second thoughts, it would be better to be safe than sorry.

On April 18 and 19, 1775, I sent troops to Lexington and Concord to destroy military stores and to catch the leader of the colonists' rebellion, John Adams. During our preparations, Paul Revere noticed what was happening and rode ahead warning the colonists that the British were coming.

We were met by about 70 Massachusetts Militiamen in Lexington. About eight Militiamen died. They regained strength in Concord. My troops began to destroy the weapon storage areas. The Militiamen were joined by thousands of colonists. They harassed us almost all the way back to our posts outside of Boston. This started the conflict. They fired on us and I ordered the assault on Breeds and Bunker Hill to break the siege of Boston. It was a very tough battle and we won, but I lost half of my troops. The colonies thus gained war momentum. When the colonies used violence in the battle, this was another law that was broken. That law prohibited using violence against the King and his troops.

I was just recalled to England that same year and I was replaced by William Howe. I have always been caught in the middle between my American connections and the King. After marrying an American woman, having 10 kids in America and making friends with George Washington, I have always kept in mind the Americans, but still considered England the ruling country and London the center of the Earth. I don't really understand these colonists. They do not know how good they have it.

Honeymoon in Jail:
The Fourteenth Amendment

Phyllis Bundy
Wilson Middle School
Albuquerque, New Mexico

INTRODUCTION

Throughout the history of the United States, questions of interracial "mixing" have been and remain controversial. Antimiscegenation laws not only survived the Civil War, but were kept and enforced in many states until the *Loving v. Virginia* case was brought before the United States Supreme Court in 1967. This lesson provides students with the opportunity to review laws on racially-mixed marriages and the Fourteenth Amendment.

OBJECTIVES

Students will:

- Become familiar with Fourteenth Amendment rights.
- Increase their awareness of the laws regarding interracial marriage in U.S. history.
- Develop critical thinking skills.

GRADE LEVEL

Middle School

TIME

Two to three class periods

MATERIALS

- Handout 1 *Loving v. Virginia* (1967)
- Handout 2 Legislative Background
- Handout 3 Arguments for Petitioners and Respondents
- Handout 4 Decision

PROCEDURE

Introduce the concept of arranged marriages (i.e. in India, China, etc). Ask how students would feel if they had no voice in the selection of a marriage partner, and their feelings if they were told they could not marry whomever they wanted under penalty of imprisonment. Explain that this situation occurred in the United States as late as the 1960s. Distribute and read through Handout 1, *Loving v. Virginia* and the Legislative Background, Handout 2.

Ask students for the facts in the case and record responses on the board. Then, using Handout 3, ask for the legal issues involved. Students may need some assistance determining between "fact" and "issue," and an attorney resource person might be helpful during this discussion, especially in defining the Fourteenth Amendment's due process and equal protection clauses.

Divide the class into groups of three. One student from each group will represent the Lovings, and one will represent the Virginia Attorney General's office; the remainder will serve as judges. Allow time for the student groups to build their case to be argued before the rest of the students. At the conclusion, the judges should give their rulings and the basis for their decisions.

Distribute Handout 4 and read through it with the class. Discuss the reasoning of the Court, and ask the students to consider other situations in which a state might dictate other choices, such as whether or not to have children or marriages between individuals of the same gender.

EVALUATION

The preparation and presentation of the arguments, as well as the judges' explanations for their decisions, provide excellent opportunities for evaluation.

BIBLIOGRAPHY

- Irons, Peter and Guitton, Stephanie. *May It Please The Court...* New Press, New York, 1993
- *Loving v. Virginia*, 388 U.S. 1 (1967)
- Schuhmann, George. "Miscegenation: An Example of Judicial Recidivism", *Journal of Family Law* 8, No. I (Spring 1968)
- Wadlington, Walter. "The Loving Case: Virginia's Antimiscegenation Statute in Perspective", *Virginia Law Review* 52, No. 7 (November 1966): 1189

HANDOUT 1:

LOVING v. VIRGINIA (1967)

Richard Loving, an Anglo, married Mildred Jeter, a woman of Native American and African heritage, in 1958 in Washington, D.C. The couple chose to live in Caroline County, Virginia where they had both grown up.

Six weeks after the Lovings married they were awakened in the middle of the night by the sheriff, who had a warrant for their arrest. The Lovings spent five days in jail. They had violated a Virginia law prohibiting interracial marriage which said that each was guilty of a felony and would face five-year prison terms.

Virginia's law banning interracial marriages dated back to 1691 when slaves were an important part of the economy and the slave society. Similar laws survived the Civil War in most Northern and Southern states. Thirty-one states kept antimiscegenation laws even after World War II. These laws were still enforced in sixteen border and southern states in 1958.

To avoid prison, the Lovings pleaded guilty. Judge Leon Bazile suspended a one-year prison sentence if the couple agreed to leave Virginia for 25 years. The Lovings moved to Washington, D.C., but had too much difficulty trying to adjust to city life, so they moved back to Caroline County and lived as fugitives for nine years. They were hidden by friends and family members as they tried to raise three small children.

In 1963 Richard Loving appealed to the United States Attorney General, Robert Kennedy. Kennedy in turn sent the letter to the American Civil Liberties Union. The ACLU enlisted to help of two Virginia lawyers, Bernard Cohen and Philip Hirschkop. Several church and civil groups supported the appeal as friends of the Court.

Counsel for the respondent was R.D. McIlwaine III, of Richmond, Virginia. He represented the Virginia Attorney General's office.

Virginia's laws against interracial marriages were revised in 1924. These included registration laws making certificates of ethnicity mandatory. When originally issued, this bit of legislation was entitled "A Bill to Preserve the Integrity of the White Race." Basically, the law was only concerned with supremacy and integrity of whites as there were no restrictions on people of color or ethnicity intermarrying with each other, only intermarrying with whites.

HANDOUT 2:

LEGISLATIVE BACKGROUND

Section 1 of the Fourteenth Amendment provides:

"All persons born or naturalized in the United States and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws."

Virginia Code Provisions:

Section 20-54: "Intermarriage prohibited; meaning of term 'white persons.' -- It shall hereafter be unlawful for any white person in this State to marry any save a white person, or a person with no other admixture of blood than white and American Indian. For the purpose of this chapter, the term 'white person' shall apply only to such person as has no trace whatever of any blood other than Caucasian; but persons who have one-sixteenth or less of the blood of the American Indian and have no other non-Caucasic blood shall be deemed to be white persons. All laws heretofore passed and now in effect regarding the intermarriage of white and colored persons shall apply to marriages prohibited by this chapter."

Section 20-57: "Marriages void without decree. -- All marriages between a white person and a colored person shall be absolutely void without any decree of divorce or other legal process."

Section 20-58: "Leaving State to evade law. -- If any white person and colored person shall go out of this State, for the purpose of being married, and with the intention of returning, and be married out of it, and afterwards return to and reside in it, cohabiting as man and wife, they shall be punished as provided in section 20-59, and the marriage shall be governed by the same law as if it had been solemnized in this State. The fact of their cohabitation here as man and wife shall be evidence of their marriage."

Section 20-59: "Punishment for marriage. -- If any white person intermarry with a colored person, or any colored person intermarry with a white person, he shall be guilty of a felony and shall be punished by confinement in the penitentiary for not less than one nor more than five years."

HANDOUT 3

ARGUMENTS FOR PETITIONER (LOVINGS)

Hirschkop and Cohen argued before the Court that the Lovings' Fourteenth Amendment guarantee of equal protection was violated, as the laws applied to Americans of all races. Hirschkop pointed out that according to Virginia law, only whites were banned from marrying someone of color. Individuals of other races were not.

They also argued that the Lovings' right of due process was violated, as the freedom to marry whom one chooses was denied.

ARGUMENTS FOR RESPONDENT (VIRGINIA)

Counsel for the respondent argued that Virginia was merely upholding its statute, and was not in violation of the Fourteenth Amendment as the Petitioner suggested.

He argued that because of its legislative history, this Amendment had no effect on the power of the states to enact miscegenation laws. The second contention by Virginia was that it had the right to express its legislative objective to prevent psychological and social problems brought about by interracial marriages.

Virginia argued that, because its miscegenation statutes punish equally both the white and the Negro participants in an interracial marriage, these statutes, despite their reliance on racial classifications, do not constitute an invidious discrimination based upon race.

The second argument is that, if the Equal Protection Clause does not outlaw miscegenation statutes because of their reliance on racial classifications, the question of constitutionality would thus become whether there was any rational basis for a State to treat interracial marriages differently from other marriages. On this question, the State argues, the scientific evidence is substantially in doubt and, consequently, this Court should defer to the wisdom of the state legislature in adopting its policy of discouraging interracial marriages.

HANDOUT 4:

DECISION IN LOVING v. VIRGINIA

Chief Justice Earl Warren spoke for the Court. The decision was unanimous in favor of the Lovings. Virginia's law against interracial marriages violated the Fourteenth Amendment on two grounds. The antimiscegenation law violated the due process clause, protecting the right of liberty which includes the freedom to marry without racial restrictions. The equal protection clause also was violated, since it bans racial laws serving no "permissible state objective." Under the Constitution, the freedom to -- or not to -- marry between people regardless of race or religion resides with the individual. This decision cannot be infringed upon by the State.

The fact of equal application does not immunize the statute from the very heavy burden of justification which the Fourteenth Amendment has traditionally required of state statutes drawn according to race. The clear and central purpose of the Fourteenth Amendment was to eliminate all official state sources of invidious racial discrimination in the States.

There can be no question but that Virginia's miscegenation statutes rest solely upon distinctions drawn according to race. The statutes proscribe generally accepted conduct if engaged in by members of different races. Over the years, this Court has consistently repudiated "distinctions between citizens solely because of their ancestry" as being "odious to a free people whose institutions are founded upon the doctrine of equality." Hirabayashi v. United States, 320 U.S. 81, 100 (1943). At the very least, the Equal Protection Clause demands that racial classifications, especially suspect in criminal statutes, be subjected to the "most rigid scrutiny," Korematsu v. United States, 323 U.S. 214, 216 (1944), and, if they are ever to be upheld, they must be shown to be necessary to the accomplishment of some permissible state objective, independent of the racial discrimination which it was the object of the Fourteenth Amendment to eliminate. Indeed, two members of this Court have already stated that they cannot conceive of a valid legislative purpose which makes the color of a person's skin the test of whether his conduct is a criminal offense.

There is patently no legitimate overriding purpose independent of invidious racial discrimination which justifies this classification.

The fact that Virginia prohibits only interracial marriages involving white persons demonstrates that the racial classifications must stand on their own justification, as measures designed to maintain White Supremacy. We have consistently denied the constitutionality of measures which restrict the rights of citizens on account of race. There can be no doubt that restricting the freedom to marry solely because of racial classifications violates the central meaning of the Equal Protection Clause.

These statutes also deprive the Lovings of liberty without due process of law in violation of the Due Process Clause of the Fourteenth Amendment. The freedom to marry has long been recognized as one of the vital personal rights essential to the orderly pursuit of happiness by free men. To deny this fundamental freedom on so unsupportable a basis as the racial classifications embodied in these statutes, classifications so directly subversive of the principle of equality at the heart of the Fourteenth Amendment, is surely to deprive all the State's citizens of liberty without due process of law. The Fourteenth Amendment requires that the freedom of choice to marry not be restricted by invidious racial discriminations. Under our Constitution, the freedom to marry, or not marry, a person of another race resides with the individual and cannot be infringed by the State.

These convictions must be reversed.

Old McDonald Had a Farm Until...
A Study of Eminent Domain

Carole Savitsky
Pleasant View Elementary School
Zionsville, Indiana

INTRODUCTION

The following lesson plan asks the students to role play community members as they examine the issue of eminent domain considering the protections set fourth in the Fifth and Fourteenth Amendments. These lessons will give the fifth grade students an opportunity to examine a local issue from both emotional and legal perspectives.

GOALS

As a result of this lesson, students will:

- develop an understanding of due process as it is stated in the Fifth and Fourteenth Amendments to the U.S. Constitution.
- participate in a decision-making process.
- analyze the actions of a school board on the basis of the rules of due process and the emotions of a community.
- recognize that Constitution is a living document with concepts which are relevant to the 1990's.
- develop an appreciation of a local governing body, i.e., a local school board.

GRADE LEVEL

This lesson plan was developed to be used with a self-contained fifth-grade class of gifted students. However, it would be appropriated for use by American history-related class from middle school through high school.

TIME REQUIRED

This lesson will take approximately eleven, 50-minute class sections to complete. This time frame does not include a school board meeting visit nor any preliminary class time that may be needed to cover general information about the Constitution and/or Bill of Rights.

MATERIALS

- A copy of the Constitution of the United States
- A document which explains eminent domain and state law
- A national and/or local case of eminent domain, e.g. *Hawaii Housing Authority et al. v. Midriff er al.*, 104 SECT. 2321 (1984); *City of Oakland v. Oakland Raiders,* 32 Cal. 3rd 60; 646 P. 2d 835
- Black's Law Dictionary and/or Law Dictionary for Non-lawyers
- Local School Board Rules and Procedures
- Dictionary and Thesaurus

PROCEDURE

DAY ONE

The purpose of day one is to introduce the Fifth and Fourteenth Amendments and provide a general understanding of due process. Distribute copies of the Constitution, and **HANDOUT 1 (vocabulary)** to the class. Introduce the Fifth and Fourteenth Amendments by reading each with the class. Refer to the vocabulary list to ensure that the students understand not only the meaning of the terms, but also comprehend their use within the Amendments.

Lead a discussion on the topic of due process using some or all of the following questions:

- What experiences had the colonists had that led them to adopt the concept of due process?
- Do the Fifth and Fourteenth Amendments prevent governments from depriving citizens of life, liberty, or property?
- Under what circumstances do citizens give up their rights?

Following the discussion, provide each student with a copy of **HANDOUT 2 (sections of the Fifth and Fourteenth Amendments.)** Direct the students to rewrite these using non-legal terminology.

DAY TWO
The purpose of day two is to agree on a group re-write of the Fifth and Fourteenth Amendments and to introduce the concept of eminent domain. Assemble the students into groups of three to five members. Instruct them to...

- read their own re-writes from HANDOUT 2.
- select a scribe to compile a group product.
- agree upon and write a group product.

This should take no more than ten minutes. It's helpful to give the groups a three-minute warning before bringing them back together. Select one group to present their final document. Write this on an overhead, if available, as the students present. At this time, allow others to suggest changes, and agree upon a final rewrite. This should be typed and distributed to each student on day three. At this time, ask the students for a definition of eminent domain. You can allow someone to look it up and/or provide them with **HANDOUT 3**. Limit the class discussion of this new vocabulary word to a few minutes. Read the directions from HANDOUT 3 and assign for homework.

DAY THREE
In order to further develop understanding of eminent domain, invite an attorney to visit the class. Prior to the visit, the attorney should have received a copy of the lesson plan. Also, be sure the attorney has a clear understanding of your goals for your students. The purpose of the attorney is:

- to briefly discuss the belief in the right to private property and to explain eminent domain,
- discuss the homework question from day two,
- provide a few local, state, or national examples of the issue of eminent domain (see appendix 1 and 2).

DAY FOUR
This day will be used to provide students with a background of the role of the school superintendent and school board members. Prior to this day, the students should have observed an actual meeting, or viewed a videotape of a typical meeting. Provide each student with a set of school board guidelines, and briefly go over the guidelines for clarification. Invite both the school superintendent and the president of the local school board to the class. Their role will be to answer questions concerning their respective positions as the school superintendent, school board member, and participants in school board meetings. Both the school board president and the school superintendent should have received a copy of this lesson plan prior to their visit. Plan a 30 - minute question and answer period. If there is a local issue of eminent domain, direct the students to not ask any specific questions about the local issue. The goal is for them to formulate their own ideas from the scenario they will receive after the guest speakers leave.

DAY FIVE
The students will continue to prepare for the development of the role playing activity. Provide each student with a copy of **HANDOUT 4 Old McDonald Had A Farm Until...**, and the list of characters, **HANDOUT 5**. Read and answer any questions. Tell the students which roles they will play, or have students self-select, whichever works best in your classroom. Spend about 15 - minutes brainstorming possible issues from each participant's point of view. List these on the board. During the last half of the class period, group the students according to their characters, i.e. school board people, school administrators and school attorney, community members who are against taking the land by eminent domain, including the land owners, and those who are in favor of taking it. The students will begin to develop their own role as participants in the matter.

DAY SIX
Most of the class period will be used to complete the development of roles. A document on eminent domain, summaries of cases, and/or local and state newspaper articles should be available for the students to use as they develop their roles. Remind the students not to discuss their views and/or strategies with others. The class attorney-partner's presence on this day will help clarify any legal questions. During the last ten minutes of class, have the students develop criteria that will be used to evaluate their school board meeting. (Refer to Teacher Tips). List all ideas and select the most appropriate. These criteria should be typed for use on day eight.

DAY SEVEN
The students will conduct a 45-minute school board meeting. If the school superintendent, school board president, or others are to be invited, be sure that this was done at least a week prior to day seven. Videotape the meeting. The newspaper reporters will write their stories for homework. To help the students review what they did, have them write two or three sentences for the questions who, what, how, when, where, and why.

DAY EIGHT
The students will view the videotape of their school board meeting. They should revise their answers to who, what, how, when, where, and why as they view the video. At the conclusion of the viewing, they will fill out their evaluation form (the criteria they developed on day six). They should use their answers to who, etc. as a guide. At this time, the reporters may also want to revise their newspaper stories for day nine.

DEBRIEFING
Joyful Noise: Poems for Two Voices and *I Am Phoenix: Poems for Two Voices* can be used for debriefing the students. The style of poetry presented in these books provides the students with a view of an issue from two sides. The poetry can be discussed during an additional class period, or during a language arts class.

DAY NINE
The newspaper reporters will each read their story of the school board meeting, and listen for the bias in each article. Lead the class in a 10 - minute discussion of the bias. Following the discussion, pair the students, one pro and one con, on the local issue of eminent domain. Each pair will write a poem for two voices based upon the viewpoint they took in their role playing.

DAY TEN
This day is a continuation of the writing activity. By the end of the 50-minute class period, the students should turn in their poems. If necessary, allow extra time for this process. If necessary, assign this for homework.

DAY ELEVEN
This day can immediately follow day ten or be planned later in the week. Prior to day eleven, each of the poems should be typed. A bound copy can be made for each student as well as for each adult who assisted in the process. On day eleven, the students should each read their poem. Following the readings, lead the class in a discussion concerning individual rights vs. the rights of a community or state. The students should include the issues of:

- eminent domain,
- why governments have this power,
- how they feel about the process,
- does due process work?

EVALUATION
The evaluation takes place throughout the unit. The first evaluation is the response given by each child to their criteria. The second evaluation is the poem each pair will write. Through their poems, the teacher will be able to determine if the students understand the idea of due process, eminent domain, and the emotional versus the legal perspective of a decision. Finally, the students' understanding of the lesson will become apparent in their discussion following the presentation of poems.

TIPS FROM THE TEACHER
The actual simulation of a school board meeting is very exciting for fifth graders. As you present their role, allow them to develop their own characters and the characters' names. Also, the students should dress appropriately for the meeting. Don't hesitate to encourage them to wear buttons, make bumper stickers, and/or signs. If name calling becomes an issue in your simulation, you may need an extra day to discuss possible effects on the community. When you develop criteria with the class, ask them what they think are the important issues to be evaluated. My students always seem to include:

- Did the person know their part?
- Did they show enthusiasm in their role?
- Did they know the issue, eminent domain?
- Did they use their new vocabulary and knowledge of the Fifth and Fourteenth Amendments?

These are just some examples from which to choose if your students need help in generating criteria. Students enjoy being involved in the evaluation process and will take it very seriously. This lesson plan was developed for a class of 28 students; there are 14 pro and 14 con roles. Add or delete roles from the school board and audience to meet the needs of your class.

BIBLIOGRAPHY

- Black, Henry C., *Black's Law Dictionary*, St. Paul, MN: West Publishing Co.,1979.
- *City of Oakland v. Oakland Raiders*, 32 Cal. 3rd 60; 646 P. 2d 835.
- Fleischman, Paul, *Joyful Noise: Poems for Two Voices*. Harper & Row, 1988.
- Fleischman, Paul, *I Am Phoenix: Poems for Two Voices*. Harper & Row, 1988.
- *Hawaii Housing Authority et al. v. Frank E. Midkiff et al.*, 104 S. Ct. 2321 (1984).
- McClellan, James, *Liberty, Order and Justice: An Introduction to the Constitutional Principles of American Government*. Washington, D.C.: Center for Judicial Studies, 1989.
- McKinney, Dennis K., *Eminent Domain: Practice and Procedure in Indiana*, Indianapolis, Indiana: Office of the Attorney General.
- *The Constitution of the United States*.

HANDOUT 1
VOCABULARY

The following words appear in the Fifth and Fourteenth Amendments. Read each of the words and the definition before you read the Amendments. After you read and discuss the Amendments, write a sentence for each word. Be sure your sentence helps to define the word. This is to be completed before you do Handout 2.

jurisdiction = the territory within which authority may be exercised

equal protection = all people are treated the same under the law

due process = all decisions made by the government must be reasonable; the right to be heard

abridge = to lesson or diminish

compensation = an amount of money equal to the value of property taken or injury inflicted

immunities = freedoms from duty or penalty

naturalized = to adopt into a nation

HANDOUT 2
AMENDMENT V AND AMENDMENT XIV, SECTION I

Rewrite each section of the amendments in your own words.

Amendment V

...nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb

nor shall be compelled in any criminal case to be a witness against himself,

nor be deprived of life, liberty, or property, without due process of law;

nor shall private property be taken for public use without just compensation.

Amendment XIV, Section I

All persons born or naturalized in the United States and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside.

No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States

nor shall any state deprive any person of life, liberty, or property, without due process of law

nor deny to any person within its jurisdiction the equal protection of the laws

HANDOUT 3

EMINENT DOMAIN -- The power to take private property for a public use without the consent of the owner of that property.

Use the space below to add additional information from the group discussion.

Find your definition of due process. Read both definitions, and think about how they may be related. Can you find a reference to eminent domain in the Fifth or Fourteenth Amendment? Where? In what way(s) are the concepts of due process and eminent domain related within the amendment(s)? Why do you think the writers of the Bill of Rights put the concept of due process into the Amendments? Why do you think the writers of the Bill of Rights put in protections against the misuse of eminent domain?

HANDOUT 4 -- Scenario: Rural Oniondale

Emma and John McDonald are both farmers in their mid-60's. They have been farming the family land, 56 acres, all their lives. The family farm was established before the Civil War. Some people have said that the old farm was used in the underground railroad. Since the old farmhouse burned down over 50-years-ago, no records have survived. The McDonalds have no direct heirs. Their two sons were killed during the early 1970s in Vietnam. They are a very patriotic family and continue to fly the American flag every day.

The community of Oniondale is about five miles down the county road from the McDonald farm. It has developed into one of the more prosperous communities in the county. The town is about fifteen miles east of a major manufacturing and cultural center.

The high school was built in 1958 when consolidation occurred. It was very modern for the 1950s, and even had a science lab which was used by the high school and middle school across the street. The athletic fields, football and tennis, are no longer used. The high school population has grown beyond the capacity of the original school. Actually, an addition was built in 1967 on the parking lot. Six trailers were placed on the football field two years ago. Even the middle school across the street had to add four trailers this year.

Eighty-five percent of the students who graduated from Oniondale High School go on to college or technical school, and there is only a one percent drop-out rate. This is very unusual, in that the drop-out rate is much higher in the surrounding communities.

Two years ago, when the first trailer was ordered, the school corporation established a committee of school and community people to look at the problem. Everyone agreed that a new school was necessary in Oniondale. The lab facilities are very outdated, there are no athletic facilities at the high school, and the classrooms are crowded. An elementary school was built eight years ago, and it now has 28 students per classroom. With new subdivisions, the projection is that within five years another elementary school will be needed.

Some of the business leaders and school administrators decided to form a committee to look at the land in the county on which to build a new high school. They looked at all the open land in their county within a ten-mile range of the center of town. The Old McDonald's property, 56 acres, was chosen. Since it was outside the city limits, the cost of the land was less than a 50 acre piece of property that one of the business leaders owned. Also, the McDonalds were only farming three-fourths of their property and it was only five miles further down the road. The school corporation decided that the McDonald farm would be perfect for the new high school. There was six acres more land than needed, but future growth had to be considered, and the community wanted a new soccer field and other athletic fields.

The school corporation of Oniondale sent a letter to the McDonalds. In the letter they explained why they needed the land and how much they were willing to pay for the 56 acres. The McDonalds refused the offer. The school corporation decided to obtain the property through the legal process called eminent domain. Old McDonald and his farm neighbors were very upset. No one could believe that the school corporation would take the land that had been in the McDonald family since before the Civil War. Furthermore, it may have been the site of historic activities. What can the McDonalds do? They have decided to go to a special school board meeting and present their side to the public.

HANDOUT 5

You will be asked to play a particular role at a school board meeting in Oniondale. There will be two sides to the issue, one side will agree with the school corporation, while the other side will agree with the McDonalds. You will be told which side your role represents. As you assume your role, give yourself a name that relates to your role in the community of Oniondale. You will want to develop your character, for instance, think how your character would respond to the issues, what questions and/or comments would your character have at the meeting? The school board meeting will be 45 minutes long. The only two people who will not speak will be the reporters, but they may ask you questions for their story at the end of the meeting. The reporters will write their story about the meeting in a manner consistent with their bias.

Agree with the School Corporation

School Superintendent
School Board Treasurer
School Board Members
  Local Businessperson
  Local Farmer
  Housewife
  Medical Doctor
  Artist
  Accountant
School Attorney
Newspaper Reporter
Members of the Community
with children in the school:
  grade K-3 Mrs. Late Twenties
  grade 4-8 Mr. Mid Thirties
  high school Mrs. Late Forties

Agree with the McDonalds

Emmy McDonald
John McDonald
Newspaper Reporter
Neighbor 1 and 2
  Mr. & Mrs. Also Farmer
Neighbor 3 and 4
  Mr. & Mrs. Also Neighbor
Neighbor 5 & 6
  Friends from Oniondale
Attorney for McDonalds
Member of the Historical Society
Farm Bureau Representative
Minister of McDonald Church
Businessperson who supports
  the McDonalds

APPENDIX I Hawaii Housing Authority et al v. Frank E. Midriff et al.

The Hawaiian Islands were originally settled by Polynesian immigrants from the western Pacific. There was no private ownership of land; all land was held at the will of the island high chief.

Beginning in the early 1800s, there were repeated efforts to divide the lands among the crown, the chiefs, and the common people. However, it remained in the hands of a few. By the mid-1960s, 47% of Hawaii's land was owned by only 72 private landowners, with the state and federal governments owning nearly all of the remaining land. The legislature concluded that the vast land ownership by so few people was responsible for skewing the State's residential real estate market, inflating land prices, and injuring the public tranquility and welfare. To reduce these social and economic evils the Land Reform Act of 1967 created the means for condemning residential tracts and transferring ownership of the condemned land to existing lessees.

Under the Land Reform Act, tenants living on single-family residential lots within tracts at least five acres in size could ask the Hawaii Housing Authority to condemn the property on which they lived. When a certain number of lessees had filed applications, the Act permitted the Housing Authority to hold a public hearing to determine whether the State's acquisition of the tract of land would serve the "public purposes" of the Act. If the Housing Authority decided the public purposes would be served, it could acquire the land at prices set be a condemnation trial or by negotiation. The Housing Authority then could sell the land to the lessees who had applied for ownership.

When price negotiations failed in this particular case, landowners filed suit, asking the court to declare the Act unconstitutional because it violated the Fifth Amendment to the U.S. Constitution. The Fifth Amendment says that "...private property (shall not) be taken for public use, without just compensation." Therefore, the Supreme Court was asked to decide whether the Public Use Clause of the Fifth Amendment allows the State to take land away from landowners in return for just compensation and to sell the land to the lessees. (The Fifth Amendment applies to the State through the Fourteenth Amendment.)

The Supreme Court stated in other cases that "one person's property may not be taken for the benefit of another private person without a justifying public purpose, even though compensation be paid." However, where the exercise of the power of eminent domain is related to a public purpose, the Court had never found a compensated taking of land to be forbidden. On this basis, the Supreme Court decided the Land Reform Act was constitutional.

The Court said that states have the power to regulate the market condition that exists when there are too few sellers and the evils associated with that condition. Also, the Court said the Act's approach to correcting these evils was not irrational. The Act presumes that when a certain number of people say they are willing but unable to buy lots at fair prices, the land market is malfunctioning. The Act then authorizes the Housing Authority to condemn lots. However, the Act does limit the number of lots any one tenant can purchase.

Whether this Act achieves its intended goals is not the question. When the legislature's intended purpose for condemning the land is legitimate and reasonable and its means are not irrational, the Court will not debate the wisdom of taking the land. The Court will not substitute its judgment as to what constitutes a public use unless the use has no reasonable foundation.

APPENDIX II
City of Oakland v. Oakland Raiders, 32 Cal. 3rd 60; 646 P. 2d 835

The city of Oakland brought an action to acquire the Oakland Raiders, a professional football team, by eminent domain after the team announced that it was moving to another city.

The city insists that what it seeks to condemn is "property" which is subject to established eminent domain law. The Raiders argue that the law of eminent domain does not permit the taking of "intangible" property which is not connected with land. Thus, the City cannot take the Raiders by eminent domain.

The Court said that the power of eminent domain is necessary to the very existence of government. When properly exercised, eminent domain affords an orderly compromise between the public good and the protection of private citizens whose property is taken to advance that good.

The Court said that there is no constitutional restriction that limits the type of property that may be taken by eminent domain. The right of eminent domain includes every kind of property, whether land or personal property, whether tangible (capable of being touched) or intangible (not capable of being touched.)

The Court went on to say that there are limits to the power of eminent domain: 1) it must be exercised to acquire property only for a public use and 2) just compensation must be paid to the owner. "Public use" does not require that an entire community, or even a considerable portion of it, enjoy or participate in the use of the condemned property. Generally speaking, anything that is intended to promote the education, the recreation, or the pleasure of the public is a "public use." In the past, eminent domain may have been exercised only to serve certain traditional public purposes, such as building roads, parks, or schools, but the concept of "public use" has evolved and been expanded in recent years.

It is the facts of each case that determine whether a proposed use is a proper public use. Therefore, the Supreme Court told the trial court to listen to all the facts presented by the City of Oakland and the Raiders and then decide whether a public purpose would be served through taking the Raiders team by eminent domain.

To Sue or Not to Sue, Is it Worth it?

WylaGene Seal
Hunter Elementary
West Jordan, Utah

INTRODUCTION

With today's "suit happy" society, children have a misconception about how easy it is to sue someone and win a substantial settlement. Often children hear others threaten to sue someone or they see advertisements on television telling them that it won't cost them anything to take someone to court unless they win. This lesson takes students through the procedures involved in suing someone and helps them examine the costs of a suit (emotional and financial), and what they might win as a result of a lawsuit.

GOALS/OBJECTIVES

Students will figure out the cost involved in an ordinary lawsuit. They will evaluate cost versus the outcome of a lawsuit, their feelings regarding their costs, and the effects they might have on themselves and their families.

TIME REQUIRED

Three class periods

SUBJECT/GRADE LEVEL/AUDIENCE

5th to 9th grade

MATERIALS NEEDED

1. Calculator for each student
2. Copies of student worksheet for each student
3. One set of die
4. Telephone books
5. Chart paper and marker for brainstorming session

PROCEDURE

Day 1

Class discussion -- Have the students discuss where they have heard of people suing another person (parents threatening to do so, TV, commercials, etc.). Have they known anyone who has been involved in a lawsuit? Have any of them ever been in a courtroom? Try to draw out from the students their preconceptions of what is involved in a court case, and what they perceive the outcome of a court case to be. Have the students brainstorm a list of possible reasons for suing another person. Include all the ideas given by the students and then save the list on the chart paper for future use during the lesson summary. On another chart estimate the costs for an average lawsuit. On another chart list what the students believe their attorney would be doing for them in an average case.

Day 2

Pass out student worksheets and calculators. Teacher should keep the dice to roll at the given times during the lesson. This activity can be done as a whole class activity or in small groups of six or seven. It is best if the teacher makes a copy of the student worksheet on an overhead and fills in the totals during the lesson. Work through the student worksheet figuring out what the lawsuit will cost both emotionally and financially.

Day 3

(Debriefing/summarization/closure.) Hold a class discussion comparing how students' perceptions changed from before they walked through a case compared to their perceptions after they had completed the worksheet.

Go over the original chart of what students thought their attorney might do for them. Eliminate any misconceptions and add any additional tasks which an attorney performs. On the chart of possible court awards, circle the probable amount of outcomes/winnings and cross out those estimates that were out of the ball park.

As a class go over their original list of possible reasons for which they might sue someone and eliminate those which an attorney would not advise them to take to court. Discuss how their perceptions changed and why. Be sure to eliminate such items such as murder for which someone would be taken to criminal court and for which the students would not be able to bring suit against the defendant.

If time allows, bring in newspaper articles concerning current court cases and ask if the students believe these cases are warranted.

EVALUATION

As a final evaluation have the students list three things for which they might go to court and tell why. Also have them list three reasons for which they would not pursue a case in court and tell why. Then have the students write a short paragraph about the most surprising discovery they made during this exercise.

TIPS FOR THE TEACHER

Make sure that you keep a running total for the court case. It is too difficult to add up the court costs in the end. It is important for the students to understand how much is invested in each phase of the court case so that they can evaluate whether or not they think they can afford to pursue the case further.

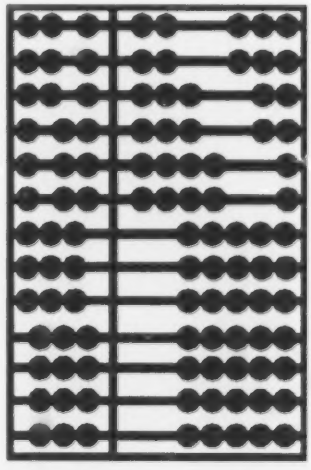
It is important to compare the students' preconceptions regarding lawsuits to their post conceptions. Compare thoughts on costs, how long a case may take, and what an attorney does. Also examine the possible outcomes should an attorney omit any of the steps.

Since this activity is similar to a game wherein students use calculators and roll dice, you might have trouble keeping the students together and quiet. When the class becomes too noisy, you may "fine" the class or each responsible party $500.00 for "contempt of court." You may even award the case to the other side because a class/group failed to fill in their worksheets on time. It is important for the students to know that everyone dealing with the court system must respond within time limits.

It would be wise to make an overhead of the student worksheet or an abbreviated version so that you can write in the correct amounts as the activity progresses. This helps students follow along. Students often need further explanation of court procedures involved in a lawsuit, so keep them working together as a group.

Be careful not to portray the attorney as a "bad guy" because his/her fees are high in comparison to what a minimum wage earner makes. Emphasize that the attorney has been to college and law school in order to prepare to represent them. This is an excellent opportunity to emphasize the importance of getting an education as opposed to working at a minimum wage job.

Since there are so many variables involved in a court case, be sure to let the children know that the number of hours used are estimates. The number of hours spent by their attorney will depend on how clear cut their case is, how well they have documented their case, how co-operative the other side is, and how much experience their attorney has in this field. The estimates found here are of the average number of hours spent on a ordinary, civil law suit. Emphasize to the children that the case they have just discussed would not be a large corporate lawsuit or a lawsuit for something as devastating death or dismemberment, etc.



To Sue or Not to Sue, Is it Worth it?
Student Worksheet

On this worksheet you will keep track of the costs, both emotional and financial, for a given court case.

After brainstorming with the class a list of possible reasons to file a lawsuit, look in the phone book under "Lawyers" and select an attorney who you think could represent you. Fill in the blanks below.

Attorney's name _____
Specialty _____
Fee per hour _____

Rather than have everyone in the class call their chosen attorney's office to check on his/her fee, roll the dice to see what your attorney will be charging. Assume that attorneys charge between $85.00 to $175.00 per hour depending on their experience. If you roll a 1 your attorney will charge $85.00; 2-$105.00; 3-$125.00; 4-$145.00; 5-$160.00; and 6-$185.00. Record your attorney's fee above and use this figure to calculate all of your court expenses. (Advise students that attorneys who might advertise in the phone book and on television that "you pay no attorney fees until you win," usually take one-third to one-fourth of whatever you are awarded and they charge for all the court costs as well. You, as a client, will receive whatever is left after you have paid for all these expenses.)

Record your feelings
How did you feel choosing someone to represent you out of the phone book? Do you believe you know if you have a good attorney or not?

How long would you have to work at a job in order to pay for one hour of your attorney's time? (Divide your attorney's rate by the near minimum wage of $5.00 an hour.) How many hours will you have to work to pay for one hour of his/her time?

Hours _____

If you work full time, or eight hours a day, about how many days will you have to work to pay for one hour of work by your attorney?

Are you willing to work this long in order to hire an attorney? Why or why not?

Your teacher will talk with you about the procedure that you will have to follow to prepare for court. You should follow along on this worksheet and fill in the fee for each step. Record your feelings as well as the running total cost.

INITIAL VISIT TO THE ATTORNEY
You visit with your attorney and tell him/her the facts of the case. You tell him/her your side of the story and give him/her all of your evidence.

Attorney Fee X 1 hour_____
Total_____

FACTUAL INVESTIGATION BY ATTORNEY
Your attorney researches the facts you have given him/her. He/she looks at the documents and informally interviews (talks on the telephone with) your witnesses.

Attorney Fee X 4 hours _____
Total_____

ATTORNEY RESEARCHES THE LAW
Your attorney checks the state or federal laws to see if you have a valid claim or not. This may take from one to six hours depending on how clear cut your case is. Roll the die to determine how many hours your attorney must spend to research your case.

Attorney Fee X ___ hours _____
Total_____

FOLLOW-UP VISIT WITH THE ATTORNEY
Your attorney tells you what his research shows and advises you whether or not he/she believes you should proceed further. Your attorney might advise you to drop the case if the law says that you are in the wrong and you really don't have a reason for suit. If your attorney believes that the costs of prosecuting your case would be greater than what you would receive, he/she might advise you to drop the case. At this point you would pay the attorney for the time he/she has spent so far.

Attorney Fee X one hour_____
Total_____

Record your feelings
If your attorney advises you not to go to court with your case, how would you feel about having to pay for his/her time spent to date?

Decide which reasons for a lawsuit (previously listed by the class) would be illogical (financially & emotionally) to pursue.

Analyze which reasons for a lawsuit would be worth the cost to pursue. Record the reasons for which you are willing to proceed and continue spending time and money.

Pretend that your attorney has advised you that you have a valid case and that he/she feels you could win in court. Now your **attorney will ask for a retainer or a deposit of money** before he/she will continue further on your case. (Retainers run from about $1,000.00 to $15,000.00 depending on how big the lawsuit is.) To determine your attorney's retainer fee roll the die. His/her retainer fee will be $1,000.00 X the number you roll. Ex. You roll a 2. Your retainer would be 2 X $1,000.00 or $2,000.00.

Attorney's retainer fee_____
Total_____

Record your feelings
Brainstorm how your family will come up with your attorney's fee. Will you take the money out of savings, borrow it, sell something, make monthly payments to the attorney, etc.? Write down your responses.

How will this affect your family's finances?

What might you have to give up to pay this fee?

Next your attorney will **draft the complaint (tell the court why you are suing)** and **file it in court**. This will probably take about two and a half hours. Then you must notify the person you are suing what is happening by giving them a summons. This summons is a document signed by the court which orders the person to respond to your charge. It is given to the person by a sheriff, so you have to pay the sheriff to deliver the summons.

Attorney fee X 2.5 hours _____ Total_____
Filing fee $80.00 Total_____
Summons served-$20.00 Total_____

DISCOVERY PERIOD
This is the time when both sides of the case try to find out what the other side will say in court. Your attorney will be talking to the attorney from the other side. He/she may choose to do any of the following procedures to decide what would be best to prove your case in court.

Interrogatories
Your attorney writes a set of questions that the other side must answer under oath. They have 30 days to answer. It will take your attorney about two to three hours to think of every possible question that he/she needs answered. It will also take him/her about one to two hours to go over the answers when he/she gets them back.

(Interrogatories:)

Attorney fee X 4 hours_____
Total_____

Request for documents
Your attorney writes the other side and requests a copy of their documents, such as contracts, pictures, etc.

Attorney fee X 1 hour_____
Total_____

Interviews with witnesses
Roll the die to see how many witnesses your attorney will need to talk to. Whatever number you roll will be the number of witnesses needed for your court case.

Number of witnesses_____

Your attorney has two choices now. He/She can informally interview your witnesses or talk with them on the telephone. (Lets say the average phone call is about 1/2 hour.) Cost for an informal interview is:

Number of witnesses_____ X (.5 X attorney fee).
Sub Total for informal interview_____

If your attorney feels that a witness may change his/her testimony or be unavailable at the time of the trial he/she may wish to question them formally in a **deposition**. This is a meeting in which your attorney meets with a witness from the other side along with their attorney. A court reporter is hired to record everything that is said and then provide you a written transcript. This costs about $600.00 plus your attorney's fee for anywhere from one to six hours depending on how many questions your attorney needs to ask the witness. Roll the die to see how many hours it will take your attorney to conduct each deposition. Cost for formal deposition:

(number of witnesses)_____ X ($600 + attorney fee X the number of hours your attorney worked.)
Sub Total for formal deposition_____

Roll the die to see which method your attorney will take. If you roll an even number your attorney has chosen to go with an informal interview. If the roll of the dice is odd then your attorney has chosen to go with formal deposition.

Fee_____ (one of the two sub totals above)
Total_____

Meet with your attorney again
Go over all the information that he/she has learned in the discovery period. After examining the evidence that the other side has, you must again decide if you want to proceed further with the trial. Look at your total cost. Evaluate whether or not you can afford to go on with the case. The other side might be willing to give you some money so that they won't have to go to court. This is called **settling out of court**. Would you be willing to accept less money now so that you won't have to go to court?

Attorney Fee X one hour _____
Total_____

Record your feelings
List the advantages of proceeding with the lawsuit.

Are there any disadvantages? List them.

Analyze how you will feel about going to court and being put on the witness stand. What do you think it will be like to be on the witness stand?

Would you be willing to settle now for less money or would you prefer going to court to try to get more money? (Remember you are not guaranteed that you will get as much money as you have asked for.)

Next you must decide if you would or would not like a trial by jury. This is a constitutional right. However, if you have a trial by jury, you must pay an additional $50.00 "jury trial fee" and you have to pay your attorney's fees for the time he/she spends interviewing the prospective jury and for the time he/she spends preparing instructions for members of the jury. (Most civil cases do not use a jury. However, all criminal cases do.) Roll the die to see how many hours jury selection would take and calculate your cost. Your fee would be:

(number rolled)_____ X_____ (attorney's fee) plus $50.00 to file.
Total cost for a jury trial_____

If you choose to not have a trial by jury, but rather go before a judge, enter 0 in the fee section and continue on.

Fee for type of trial_____
Total_____

Prepare for trial

Your attorney will write a "court brief" to the judge. In this he/she will tell the judge what he/she will say and what he/she intends to prove in court. Your attorney will also meet with you to "practice" how you will answer questions in court and how you will act in court. Then your attorney will organize a list of witnesses and what he/she needs each witness to say. He/She will then write down all the questions he/she must ask each witness. He/She will also have to organize what he/she needs to ask each witness from the other side. Then he/she must evaluate the "evidence" he/she will use to see what can be admitted into court and what items will not be allowed. This procedure will take between 10 to 15 hours. So, multiply your attorney's fee by 13 hours (an estimated average) of work.

Attorney's fee X 13 hours_____
Total_____

Trial

Your trial takes hours. (Roll the die again to see how many hours you will spend in court.) In court you must pay each witness a fee of about $14.00 and you must pay your attorney for his/her time. Calculate how much the trial will cost you.

Fee _____ (number of hours in court) X attorney fee_____
+ (number of witnesses)_____ X $14.00_____
Attorney fee + witness fee = Total trial fee_____

Total trial fee_____
Total_____

After the trial, a verdict will be given either by the judge or by the jury. If you win, you will be awarded a sum of money out of which you must pay for all your costs and attorney fees. If you sued because you were hurt or your property was damaged, you must use part of this money to pay those bills also. However, should the person refuse to pay this money, you will again have to take them to court. You will still have to find a way to collect or make them pay the fee. There is also the possibility that you will lose this case and have to pay all of the court and attorney fees out of your own pocket without getting anything from the other side, or the judge or jury may find them guilty yet not award you very much money.

Lets pretend that the judge awards you $25,000.00. Subtract the cost of the trial from this amount. How much is left to you for damages?_____ Now you must replace what was broken or pay for your medical expenses, etc. Roll the die to see how many hundred dollars you must spend to pay these bills. (Ex. If you roll 5 then your medical bills were $500.00) Subtract this amount from what you have. Now how much will you actually gain after this court case is over? _____

Record Your Feelings

What would this amount of money buy you? List at least five items worth this much money.

Do you think that this is a fair amount of money for all the work and hardship you have been through? Why or why not?

Could you and your family afford to pay for a trial considering you are not certain that you could win?

It will have probably taken you one year to get your case to court. Every time you talk to your attorney it may bring up the hurt or angry feelings which directed you to file for the lawsuit in the first place. Would it be better to forget about the incident or to continue fighting in court until the case is over? Analyze how you might feel and record those feelings.

Whoever you are suing will be very angry with you. After the case is over, you will probably not be friends anymore, especially if they have to pay you money. Some of the witnesses may not appreciate being called on to testify against their friends. So, they may not be your friends again either. Which would be more important to you -- a friend or the money you might win in court? List the advantages and disadvantages of your choice.

Often people sue someone whom they don't know and won't see again. Would this make it easier for you to sue them? Record your feelings.

Should it make a difference if you do or don't know the person whom you are suing? Why or why not?

Would you want to play with or do something with someone who sued one of their friends or a neighbor of yours?

Ask your parents what they might sue over. How is their list different from yours?

Words, Words, Words: Let it Begin With Me

Ruby Peterson
Nampa Junior High Schools
Nampa, Idaho

OVERVIEW

Words can incite conflict, words can resolve conflict, and words can help avoid conflict. Words are often said without thinking or without even knowing what they mean. This lesson is designed to introduce a unit on conflict resolution by increasing the awareness and understanding of the positive or negative power words potentially have. A brief encounter that begins with words can quickly become physical or violent or lead to adjudication.

On a very basic and personal level, beginning with onomastics, students investigate the origin and meaning of their own names and discover the diversity within their classroom and school. From here students brainstorm words that can incite, resolve, and help avoid conflict and investigate the etymology, semantics, and implications of these words. A written reflection will conclude the lesson.

OBJECTIVES

As a result of this lesson students will:

- Demonstrate research skills that take them beyond the first definition in the dictionary in analyzing words and concepts.
- Begin to develop an understanding and working knowledge of conflict resolution words and concepts.
- Develop oral communication skills by sharing research and analysis with other students.
- Demonstrate understanding of how conflict resolution can begin on a personal level.
- Develop written communication skills by writing a reflection paper on the power of words in conflict and resolution.

AUDIENCE

This interdisciplinary conflict resolution unit is specifically designed for a 7th-8th grade gifted class with emphasis on language arts, civics, creative problem solving and leadership. Differentiation comes from the depth of study, the level of active engagement, and the amount of seminar activity.

TIME REQUIRED

Onomastics -- one or two class periods. Allow enough time for each student to orally share information they have discovered.

Brainstorming and semantics investigation of conflict resolution words -- two/three class periods.

Entire conflict resolution unit -- three to four weeks. This is only an introduction that will lead to a study of alternatives for resolving conflict, mediation, and a mock mediation demonstration for an audience.

MATERIALS REQUIRED

1. A variety of dictionaries and name books
2. Handout 1 - onomastics study
3. Handout 2 - conflict resolution words
4. Adequate materials to record and display information from procedure #4
5. Adequate research material to complete procedure #10

PROCEDURE

1. Introduce the lesson by talking about something near and dear to everyone - their name. Explain what onomastics is and set a tone of respect and pride in our individual heritage. Use your own name as an example and explain the language and meaning of your first, middle, and last names.

2. Tell students they will investigate their own names. Make sure you have sample dictionaries and name dictionaries. Instruct students to read clear through the definitions to ensure they don't miss important information.

3. Give students Handout 1. Help students as needed, and be sensitive to students with a name they don't want to share.

4. Have poster paper available for students to write their names, the language, and the meanings. Hang the finished poster on the wall.

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5. Ask students to orally share the information they discovered about their name, as well as any story they may have about the family significance of the name they were given.

6. Talk to students about the diversity in their classroom and school. Make sure they understand the concept that diversity is different, not negative or positive, but different.

7. Give students Handout 2. As a group, appropriately and without offending, brainstorm ways trash language and name calling can become trigger words and incite conflict. Discuss trigger words and develop an understanding that different words trigger different reactions in different people.

8. Ask students to brainstorm and write additional words or phrases that can help avoid conflict. Allow a couple minutes, then ask them to orally share any more ideas they had. Ask students to think about and discuss what principles these words and phrases may be based upon (for instance, respect for self and others, responsibility for own behavior).

9. Read the examples of words that resolve can conflict. Ask students for additional ideas and discuss whatever they may bring up.

10. Divide the class into four groups, and instruct students to investigate the etymology and semantics of the "resolve" words. Assign one of the sample "resolve" words to each group. The group will then investigate the word and create a one to two-minute presentation of their word. Allow about 15-20 minutes for the creation of these presentations. They can be in the form of a humorous skit, a musical rendition, or be more serious. Visuals may be used. All group members must participate.

11. Instruct students to reflect and write about the "words" lesson they just completed. Write 250 to 500 words, rough draft first. Students should ask a teacher, parent, etc. to help edit and make corrections and improvements. Final copy must be in blue or black ink or typed.

The reflection should include the following:

- Discuss how conflict resolution can begin with you.
- How does the power of conflict and resolution words affect you personally?
- What principles is conflict resolution based upon?
- Site examples to support and strengthen your statements.

EVALUATION

Formative assessment is ongoing throughout the lesson. Clearly set expectations and then monitor student progress and give appropriate feedback. Evaluate and grade the handouts on the basis of accuracy, thoroughness, class participation, and group presentation.

Summative assessment is appropriate for the written assignment.

- Did the student hand in both a rough draft and a final copy?
- Is the final copy neat and mechanically accurate?
- Were the reflection statements and questions addressed?
- Were examples given to support/ strengthen?

DEBRIEFING

The reflection papers written by students provide an excellent method of debriefing. They allowing the teacher the opportunity to review the level of individual student understanding of the power of words in conflict and resolution.

BIBLIOGRAPHY

- Frederick, E. Coston. *Teaching Content Through Reading.* Charles C. Thomas Publisher, Springfield, Illinois, 1984.
- *Resolving Conflicts Peacefully.* Center for Research and Development in Law-Related Education, Wake Forest University Law School.
- *Teens, Crime, and the Community.* National Institute for Citizen Education in the Law. West Publishing Company, 1992.
- Zimmer, Judith. *We Can Work It Out! Problem Solving Through Mediation.* National Institute for Citizen Education in Law, 1993.

HANDOUT 1

ONOMASTICS

Onomastics is the study of the origin and evolution of names. Onoma is of Greek origin and means name. (A related word is onomatopoeia, naming natural sounds such as bow-wow, splash, or knock-knock.)

Write your own name. Use a dictionary and/or a dictionary of names to research the origin and meaning of your names.

First _____ Middle _____ Last _____

Any other names or nicknames: _____

What is the language of each name? It may have evolved through several languages.

First:
Middle:
Last:
Others or Nicknames:

What does each name mean? (Some names don't have a definition, they just sound good.)

First:
Middle:
Last:
Others or Nicknames:

What is the significance of your names, that is, why were you given those names?

HANDOUT 2
CONFLICT RESOLUTION WORDS

NAME_____

Brainstorm words in each of the three categories and investigate and discuss the etymology (study of the origin of words) and semantics (meaning of words) of those words.

1. Words that can incite conflict - trigger words. (incite: to stir up, to instigate [in-indicates; citaire - to rouse] Old French, Latin). Example: Verbal and nonverbal trash language and name calling can become trigger words. Consider -- What are your trigger words? What words trigger other people? Do you have a long or a short fuse?

2. Words that can help avoid conflict. (avoid: to keep away or at a distance [es - out; viduare - to empty] Middle English, Norman French, Latin). Examples: Please, thank you, excuse me, I'm sorry. Consider - What principles are these words derived from?

3. Words that can resolve conflict. (resolve: to decide or determine [re - again; solvere - to loosen] Middle English, Latin). Examples: negotiate, mediate, arbitrate, and adjudicate. Consider -- What does the "ate" suffix mean? Which resolution method may be most applicable to what kind of conflict?

For The Record

Cynthia Edwards-Jamieson
Knoxville Middle School
Knoxville, Iowa

Daniel J. Hanson
Attorney
Clive, Iowa

OVERVIEW

This lesson plan will look at the following issues:

- What kinds of speech or expression are protected?
- What kinds of speech are not protected?
- Can the government put any limits upon a person's freedom of expression?
- Do public school students have the same First Amendment rights as adults?
- Has the United States Supreme Court ever ruled on public school students First Amendment rights?

GOALS

As a result of this lesson, students will:

- Know what the First Amendment is by reading it and applying it to hypothetical cases.
- Analyze what kinds of speech or expression are protected by reviewing and discussing hypothetical case summaries.
- Analyze what kinds of speech are not protected by reviewing and discussing hypothetical case summaries.
- Know that the government can put limits upon a person's freedom of expression by reviewing and discussing hypothetical case summaries.
- Recognize that public school students do not have the same First Amendment rights as adults by reviewing and discussing hypothetical case summaries.

AUDIENCE

Middle school, high school, and university level

TIME TO COMPLETE

This can be done in two or three class periods, however, lengthy discussion should be allowed.

MATERIALS

1. Blackboard (or overhead projector)
2. Handout #1: First Amendment
3. Handout #2A: Freedom of Speech Violation/Yes or No
4. Handout #2B: Freedom of Speech Violation/Yes or No - Teacher's Guide
5. Brett Martin Case Study

Key Concepts and Vocabulary:

First Amendment
Pure Speech
Symbolic Speech
Fighting Words
Due Process of Law
Obscenity
Defamation
Commercial Speech
Hostile Audience
Heckler's Veto
Prior Restraint
Access to Information
Free Press
Fair Trail
Lewd
Offensive Conduct
Censorship
Objectify

PROCEDURE

1. Write "First Amendment" on the blackboard. Ask students to define it using their own terms.

2 Put Handout #1 on the overhead (or make copies and pass out to all). The presenter should read over the handout and answer any preliminary questions. Key concepts and vocabulary should also be discussed.

3. Distribute Handout #2. Have students count off from one to five. Have all the students who share the same number assemble in a common area and then follow the instructions.

4. Before discussing each of the situations listed on Handout #2 explain that some cases are clear-cut and others are not. Students should be aware that many legal questions have no agreed-upon "right or wrong" answers. Most questions of law take into account a variety of circumstances.

5. Discuss each situation in Handout #2. Ask students how these cases could affect them.

-- OR --

Have all students break into three groups for each question. One group is for those who support "Yes" there was a Freedom of Speech Violation. The second group is for those who support "No" there was not a Freedom of Speech Violation. The third group is undecided and stay in the middle of the room. Give each group time to formulate group responses on their positions and then debate each statement. Teacher can elaborate from Teacher's Guide.

6. Have students read a case study and newspaper clipping on the Brett Martin case. The objective is to read and decide whether there has been a violation of the student's First Amendment right of freedom of speech. The students need to be prepared to give reasons for their answers. Conduct counts in class. Each student is assigned a color (Blue, white, red).

Blues = Attorneys for Brett Martin
Whites = Attorneys for school
Reds = Judges

Each group should spend time formulating arguments (questions for judges). The blue and the white groups should develop arguments/ reasons which support their side of the case. Regroup into groups of three (one white, one red, one blue). Present arguments to judge (students go first). Judges ask questions and may take notes. Each judge reaches and announces a decision, with reasons. As a class, chart the decisions and reasons on the board/or flip chart. Analyze decisions - why?

Why are there different decisions? What key concepts from Handouts 1 and 2 are present in Brett Martin's case?

EVALUATION

Students understanding of key concepts can be evaluated during charting of judge's decisions on board and discussion of reasons for decisions.

DEBRIEFING

Can be accomplished during discussion/ charting of judge's decisions and reasons.

BIBLIOGRAPHY

Booklet

"Constitution of the United States." Prepared by the Publishers of World Book Encyclopedia and the Commission on the Bicentennial of the United States Constitution.

Books

Fisher, Louis & Schimmel, David. *A Bicentennial Guide For Lawyers and Teachers*. Phi Alpha Delta Public Service Center, 1990.

HANDOUT #1
FIRST AMENDMENT

The First Amendment to the United States Constitution provides:

> *Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.*

The First Amendment applies to *Congress*. Following the adoption of the Fourteenth Amendment, the United States Supreme Court ruled that that First Amendment rights (as well as other civil rights) must be respected by the states. Public schools are instruments of the State and must respect First Amendment rights.

WHAT KINDS OF SPEECH OR EXPRESSION ARE PROTECTED? The First Amendment protects both **pure speech** and **symbolic speech**. "Pure speech" is that which is spoken or written. "Symbolic speech" involves expression through symbols. Flag-waving, for example, is symbolic speech. So is flag-burning.

WHAT KINDS OF SPEECH ARE NOT PROTECTED? Freedom of speech is not absolute. A person does not have a right to scream "Fire!!" in a crowded theater when there is no fire, because such an utterance presents a **clear and present danger** to those in the theater. The First Amendment provides some protection to statements of falsehood or ridicule, but **defamation,** which includes both libel and slander, is not protected by the Constitution. Speech may be protected by the First Amendment even if someone in the audience is offended by the speech. Speech which is so offensive that it constitutes **obscenity,** however, is not protected. The speech might not be protected by the Constitution if the listeners are a **captive audience** forced to listen.

CAN THE GOVERNMENT PUT ANY LIMITS UPON A PERSON'S FREEDOM OF EXPRESSION? Yes. The government may, for example, issue rules which restrict when, where, and how certain types of expression may be made. Such rules are called **time, place, or manner** restrictions. In general, time, place, and manner restrictions must be fair and must be **content-neutral,** that is, the restriction must not discriminate against a speaker on the basis of his or her message.

DO PUBLIC SCHOOL STUDENTS HAVE THE SAME FIRST AMENDMENT RIGHTS AS ADULTS? No, they do not. Students' rights are more limited. The school has the right and the duty to teach discipline, civility, good manners, and respect for the rights of others. Students who speak whenever and wherever they want may interfere with the school's functions. Even so students do have the right to their own views and they may express those views as long as there is no interference with school work or the rights of others. Fear of a possible disturbance ordinarily is not enough to justify prohibiting a student from expressing his or her personal views.

First Amendment (continued)

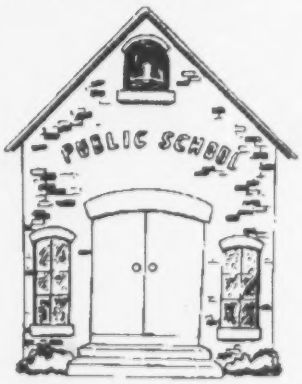
HAS THE UNITED STATES SUPREME COURT EVER RULED ON PUBLIC SCHOOL STUDENTS' RIGHTS?

Yes, it has. Three significant cases are summarized here:

Tinker v. Des Moines Independent Community School Dist. (1969). Three public school pupils were suspended for wearing black armbands to protest the government's policy of involvement in Vietnam's civil struggles. The Supreme Court ruled that, even though the armbands were symbols, they were "speech" within the meaning of the First Amendment. The Court also noted that students do not lose all of their First Amendment rights once they step onto school grounds. The wearing of the armbands, said the Court, was a silent, passive expression of opinion with no accompanying disorder or disturbance. A student's speech may be prohibited only if it would materially and substantially interfere with the requirements of appropriate school discipline, or if it would interfere with the rights of others.

Bethel School Dist. v. Fraser (1986). A student used words of sexual innuendo when nominating a fellow student for a post in student government. The speech was intended to be funny, but it was clearly not appropriate as a nominating speech. The Supreme Court upheld the school's discipline of the speaker. The Court characterized the speech as vulgar, plainly offensive, indecent, and lewd. The Court said that the school has the right to regulate the manner of public discourse; in other words, the school has the right to discipline a student for making a speech inappropriate to a government nomination. The Court also noted that the speech was made at a student assembly where students were not permitted to leave; they were a captive audience.

Hazelwood School Dist. v. Kuhlmeier (1988). Students wrote articles for the school newspaper concerning student pregnancy and the effects of divorce upon students. The principal objected to the stories on various grounds and the stories were withheld from publication. The Supreme Court, noting that the rights of public school students are not coextensive with the rights of adults, concluded that there was no violation of the First Amendment. The school newspaper was an educational tool, not a forum for public expression, the Court said. (The Court stated that it was a public forum largely because the newspaper was published as a part of a course on Journalism.) The Court also ruled that the school has the right to exercise editorial control over style and content, just as publishers of adult newspapers exercise editorial control over their publications.



HANDOUT #2A
FREEDOM OF SPEECH VIOLATION?

Directions: Read each statement and decide whether there has been a violation of the student's First Amendment right of freedom of speech. Be prepared to give reasons for your answer.

YES NO 1. The teacher asks questions in class. Several students, including Scott, raise their hands. Scott repeatedly blurts out the answer even though the teacher has not called on him. The teacher disciplines Scott for speaking in class.

YES NO 2. The teacher asks Mark if he knows the name of a certain historical figure in the American Revolution. Mark, who fancies himself a class clown, does not know the correct answer, but instead makes a joke. The class laughs. The teacher sends Mark to detention.

YES NO 3. An American Government teacher quotes Rush Limbaugh in one of his classes, and asks the students whether they agree with him. Lynetta, who has had no previous disciplinary problems, knows that the teacher likes Rush Limbaugh. She raises her hand, gets recognized by the teacher, and says, "Rush Limbaugh is a blowhard." The teacher disciplines her for making an inappropriate comment in class.

YES NO 4. At a school assembly before the big Homecoming football game, one of the football players is heard to scream, "We're gonna murder those s---heads tonight!" The coach suspends the player from the Homecoming game, saying that the suspension is justified because of the player's use of "foul language."

YES NO 5. All candidates for student council are permitted to address the student body at an assembly. The principal requires all candidates for student council to submit their speeches to her office in advance. A student who fails to submit a speech in advance, or who deviates substantially from the speech given to the principal, will be disqualified.

YES NO 6. Caroline is a candidate for student council and submits her speech to the principal. The principal tells Caroline that some of the comments in the speech are inappropriate. Caroline respectfully disagrees, saying that the comments are the basis for her election platform. The principal says that Caroline will be disqualified unless she removes those remarks from her speech.

YES NO 7. The principal tells all candidates for student council that they may put up posters in the hallways, but they may not distribute flyers. Violation of this rule will result in disqualification.

YES NO 8. In the hallway between classes, Corey corners Maria at her locker and says "You're looking really hot today!" Maria is Corey's former girlfriend and now wants nothing to do with Corey. She tries to get away from Corey but he blocks her path and continues to make sexually-related comments. A teacher sees and hears this and orders Corey to the vice principal's office.

YES NO 9. All seniors are permitted to submit a quote to accompany their graduation photos in the school yearbook. The principal reviews the quotes and decides that three of them are inappropriate. In one quote, a student refers to the vice principal by name and calls him a "perverted old fag." Another student submitted the quote, "Now that I've graduated, I can say with confidence, 'I've just wasted twelve perfectly good years of my life.'" The third quote is, "Oogah boogah!" The students who submitted these quotes get their pictures in the yearbook with no quotes below their pictures.

Freedom of Speech Violation? (continued)

YES NO 10. Larry wears a T-shirt to school that says, "Meet me under the coconut tree and kiss me under the nuts." Larry is disciplined for wearing the T-shirt and is ordered never to wear to school any shirt which will offend people.

YES NO 11. At the student graduation, the class valedictorian is permitted to make a speech. In the past, the valedictorian has been permitted to say a prayer as part of the speech. In this year's class, Ibrahim, a follower of Islam, is the valedictorian. He proposes to say a prayer which includes the words, "There is no God but Allah and Mohammed is his prophet." The principal, fearing that the audience of mostly Christians and Jews will find such words offensive, orders Ibrahim to remove the prayer from his speech. If Ibrahim refuses to comply, the principal warns him, "You may not graduate."

YES NO 12. One of the rules for a school-sponsored talent show is: "No music or songs will be permitted which contain direct or indirect references to drugs, alcohol, violence, sexuality, or any sort of criminal conduct." The rules further provide for severe penalties.

YES NO 13. Another rule for a school-sponsored talent show is: "No rap music will be permitted." The reason for this rule is that studies have shown a connection between rap music and incitements to violence.

YES NO 14. At the school prom, Stuart "gives the finger" to one of the teacher chaperons Mr. Miller after Mr. Miller tells Stuart to get a haircut. Mr. Miller ejects Stuart from the prom and refuses to allow Stuart a refund of his prom ticket.

YES NO 15. Several students send a petition to the principal, demanding that the school change its policy regarding searches of student lockers. The principal announces: "You've made your point. I don't want to see any more petitions on this matter." The principal receives another petition on the subject an hour later, and directs that all students whose names appear on the petition be disciplined.

YES NO 16. Some students are assembling peacefully on school grounds to protest the locker search policy. The principal has no objection to this, but she does object when one of the students produces a bullhorn and begins shouting demands that can be heard throughout the school (and throughout the neighborhood). The principal orders the assembly to break up and disciplines the student holding the bullhorn.

YES NO 17. Two students at the school newspaper write an article about condom distribution in schools. The student editor approves the story. The supervising teacher, after consulting with the principal, orders that the article not be printed in the school's newspaper. The teacher explains that the principal feels such an article "would be too graphic and offensive."

HANDOUT #2B
TEACHER'S GUIDE

Although some of the situations below are clear-cut, teachers should be aware that many legal questions have no agreed-upon "right or wrong" answers. Most questions of law take into account a variety of circumstances.

1. Scott's First Amendment Rights have not been violated. This is a pretty clear-cut example of the principle that a teacher has the right to maintain classroom order and prevent disruption.

2. Jokes are a kind of speech protected by the Constitution, but once again, the key issue in this problem is the teacher's right to prevent disruption.

3. In this case, the answer is less clear. If there is no indication that Lynetta intended to disrupt the class, then Lynetta should not be penalized merely for holding an opinion different from the teacher's. Calling Limbaugh a "blowhard" would be neither libelous nor obscene.

4. In general, obscenity involves more than the mere use of a "dirty word" or two; when minor students are involved, a single dirty word might be considered "vulgar." In this case, the coach may have the right to insist that the players behave like sportsmen on *and off* the field.

5. In this problem, there is a possibility of discipline, but no student is actually disciplined or threatened with discipline. The question is whether the principal has some legitimate concerns that students might try to make a disruptive or libelous or obscene speech, or whether the principal has a legitimate concern that one candidate might substantially and materially interfere with the rights of others.

6. Here, a student is actually threatened with discipline. When the government seeks to censor a speech [or other verbal or written expression] before it is made, this is sometimes known as "prior restraint." As with the problem above, the question is whether the principal has some legitimate concerns that students might try to make a disruptive or libelous or obscene speech. The problem does not provide enough information to make this determination.

7. The question here is whether this is a reasonable, content-neutral "time, place, or manner" restriction.

8. There is not enough information here to determine whether Corey's comments were obscene, but they could be. Maria also might qualify as a captive audience. More to the point, sexual harassment is an interference with another's rights and is not protected by the First Amendment.

9. If a school offers to let a student submit a quote, the school cannot ordinarily censor the quote. The school should give advance notice of what kinds of quotes will be unacceptable, and this problem does not say if this was done. The first quote can probably be stricken because it may be libelous. The second quote is uncomplimentary to the school, but probably cannot be censored on that basis. The third quote is not obviously lewd or indecent; even some nonsense is protected by the First Amendment.

10. This message contains an obvious sexual innuendo which many people may consider vulgar. Whether Larry has a First Amendment right to wear the shirt to school is a close question, but the courts today would probably side with the school. Note that the order given to Larry about wearing offending clothing is arguably vague.

11. There are several legal issues presented by this problem: freedom of expression, freedom of religion, freedom from establishment of religion, and whether the school is discriminating against Ibrahim on the basis of his religion [which is prohibited by the Equal Protection clause of the 14th Amendment and civil rights laws]. This problem illustrates that freedom of speech may be closely connected with other rights. There is, by the way, no conclusive answer to this problem. Some activist groups are taking the position that a student-initiated prayer at graduation is permitted by the Constitution; others disagree, saying that formal prayer has no place at school functions.

12. This rule is arguably so vague as to be unenforceable. Arguably songs about love might be deemed to relate to "sexuality" and a song about injustice might be deemed to relate to "violence" or "criminal conduct." Courts are hesitant to enforce vague restrictions on expression.

13. This restriction is perhaps a little less vague than the one just above, but it is arguably vague nonetheless because not all rap music urges violence. In addition, the school should have more than mere fear of a disturbance before it may censor expression which will not affect the educational processes or the rights of others.

14. Giving someone the finger is an example of symbolic speech; the insult is gestural rather than verbal. Unlike the black armbands in the *Tinker* case, this insulting symbolic speech is arguably aggressive and disruptive.

15. The principal is on pretty shaky ground here, as long as the petitions were presented in an orderly and civilized way. Note that the principal decided to discipline those who signed the second petition, even though those students may have signed before the principal made the announcement.

16. In this case, the use of an amplifier has resulted in an infringement upon the rights of others to be let alone, and taking action against the user of the bullhorn may be an appropriate "time, place or manner" restriction. It is less clear, however, whether the principal has the right to break up an otherwise peaceful assembly.

17. In general, the supervising teacher and principal act as publisher for the paper, and the publisher has final say about what stories are inappropriate for the readership.

BRETT MARTIN CASE STUDY

PROM JOKE LEADS TO JAIL IN KNOXVILLE, IOWA (MAY 1993)

A senior at Knoxville High School was arrested for criminal trespass at the school prom, where he stepped out of his prom date's car in a red dress. Martin and his friend, Terry Massick, decided to go to the prom as a couple after Massick's date, Casey Norton, decided she did not want to go. Massick wore the pants and Martin in a spaghetti-strapped red sequin dress and a long brown wig. Martin was arrested for criminal trespassing by the Knoxville police, who were informed of Martin's plans by school officials. The school officials were concerned about Martin's appearance for two reasons:

1. They were concerned whether or not Martin had a ticket for the prom.

2. They felt Martin was not dressed "appropriately" for the school function.

"We just wanted to have a couple of laughs," Martin said. "The world's way too serious."

A sophomore friend of Martin's said that most of the students were aware of Martin's plans before Friday night. "All the students wanted him to do it," she said. "Everybody was totally for this."

The teachers told several students that the prank would disrupt the prom's dignity.

The president of the Student Council, Dee Dennison, stated that she supported the school's decision to keep Martin out of the prom. "To me, he was mocking the prom," she said. "We spent a lot of money and time on it, and it was something that was important to us." She admitted that her opinion was in the minority among KHS students. "I don't think people necessarily agree with what he did, but they feel he shouldn't have been arrested."

Martin said that he had asked a teacher to put the cost of the ticket on his senior bill, so he thought he had purchased a ticket.

Principal Jim Thornton said he had heard about Martin's plans for attire and he told Martin that it was not appropriate. Thornton said that Martin was asked to leave the prom, but when he refused to leave, he was charged with criminal trespassing.

The police said that the charge is a simple misdemeanor and that Martin was given a ticket, but never placed in jail. Martin was released after he promised to appear in court. He could receive a fine of up to $100 or 30 days in jail.

100 Years of Looking the Other Way: Discrimination and the 1964 Civil Rights Act

Vicki L. Chase
Clair E. Gale Jr. High School
Idaho Falls, Idaho

LESSON OVERVIEW

When studying the Reconstruction period, the 13th, 14th, and 15th Amendments, or the 1960s, it is important for students to understand that it took another 100 years for the rights of African Americans to manifest themselves. In this lesson students will work in small groups and individually to understand the history of discrimination in the U.S. prior to the 1964 Civil Rights Act. They will also prepare and conduct oral interviews with people who remember the 1964 Civil Rights Act in order to learn about the impact of this piece of legislation.

GOALS

As a result of this lesson, students will:

- Understand the impact of discrimination in the U.S. prior to the 1964 Civil Rights Act.
- Investigate and recognize instances in history where individuals' Constitutional rights have been denied.
- Understand how life changed in the U.S. as a result of the 1964 Civil Rights Act.
- Learn how the community can serve as a historical resource.
- Learn how to develop questions, take notes, and conduct an oral interview.

GRADE LEVEL

8th-12th grades

MATERIALS NEEDED

1. A large sheet of poster paper and markers
2. Handouts 1, 2, and 3

BACKGROUND

Students should have an understanding of the 13th, 14th, and 15th Amendments of the Constitution.

PART I

1. Divide the class into groups of four or five students. Give each group of students one of the skit descriptions on Handout 1. The students will create short skits to depict the problems listed on their handout. Depending on how detailed you want the skits to be you may also require the students to use outside sources to do further research on their assigned problem. It is also fun to tell the students that each one is responsible for creating a prop to use or wear during the skit.

2. Before the students present their skit, hang a big piece of poster paper in the front of the room with two columns on it. Label the top of the first column "Problems" and the other column "Rights Denied."

3. Have the first group of students present their skit to the class.

4. After the skit has been presented ask the class to generate ideas as to what the underlying problems are. Then have students look in the Constitution for any protection against this type of discrimination. Students should explain the rights denied and where it can be found in the Constitution. Write all of the ideas on the sheet of paper. Once they have exhausted ideas for the first skit go on to the next and continue the process. When the skits are finished the students should have an understanding of some of the basic problems facing African Americans after the Civil War and before the 1964 Civil Rights Act.

PART II

1. Write on the board "100 years". Have the students write down changes that have occurred in the last 100 years. Discuss the ideas and share the changes that they know have happened. Discuss what 100 years would be in terms of human life. Try to get across the idea that many things can change in 100 years and life can be very different. Also, have them write down family members that they know lived prior to 1894. Many students will not be able to name their great grandparents or their great-great grandparents. Discuss the fact that some do not even know these people.

2. State that the 13th, 14th, and 15th Amendments were passed in the 1860s and yet it was not until the 1960s that the people received the benefits of these laws. Be sure to get the point across that many of the people who were supposed to receive these benefits were no longer alive to enjoy them.

3. At this point explain to the students that they will be using their parents, grandparents, uncles, aunts, etc. to help them do a research project. The project requires students to interview people who lived during the 1960s. They will find out what life was like in the U.S. and how it changed once the 1964 Civil Rights Act was passed.

4. Post the papers from the previous day on the board to refresh their memory as to the problems which African Americans were facing.

5. Give the students Handouts #2 and #3. Have the students review the main points of change that the Civil Rights Act brought about. Then go over the handout on oral interviews.

6. Students will work to generate at least 15 questions that they could ask family and friends. Be sure to explain that the questions should help them to better understand what was going on at the time.

7. Peer edit the questions. The small groups should evaluate the questions and give suggestions for improvement.

8. Students should find a partner to conduct a mock interview with. Practice asking questions and taking notes. Once both people have had a chance to interview go over the notes to make sure that they are accurate.

9. The students will now conduct an oral interview with a person who can remember the years before 1964. They are to ask their questions and record their information. You might want to allow them to use a tape recorder for the interview. Be sure to mention that they need to ask their subject if a taped interview is acceptable.

10. Once the student has interviewed at least two people (the more people the better), they are to write a summary of what life was like in the U.S. before and after the 1964 Civil Rights Act. Be sure to tell the students that this summary should be in proper essay form with paragraphs, introduction, conclusion, etc.

11. To make sure that the students are being honest with their interviews you might require a personal signature from the interview subjects.

12. As a wrap up have the students read their summaries to small groups in the class and discuss some of the interesting things that were said to them.

Note: If you live in an area where there is an African American population, strongly encourage the students to interview them. Some areas of the U.S. will have more difficulty with this than others based upon demographics.

BIBLIOGRAPHY

- Walen, Charles and Barbara. *The Longest Debate: A Legislative History of the 1964 Civil Rights Act*. Washington D.C.: Seven Locks Press, 1985.

Handout #1

Scenarios for Skits

1. The date is November 2 and it is time to vote. You and your friends are excited about being able to go and have a say in the government. When you arrive at the polls you are told that you will have to pay a poll tax and pass a literacy test in order to vote. When you ask why the whites do not have to do this you are told that their grandfathers were eligible to vote on January 1, 1867 and that means that they do not have to pay or take the test. (Note, only whites had been eligible to vote on this date.) This seems very unfair to you since some of you do not even know who your grandfathers were; you were sold off as a slaves at very young ages. The only way around paying the poll tax and taking the literacy test seems to be available only to the whites who had grandfathers voting in 1867. **Create a skit to depict the problem you are facing with trying to vote. Include in your skit a description of the rights which you think the Constitution guarantees to you.**

2. When you go to the polls you are told that you have to pay a poll tax. You know that this is just another excuse the whites have created to keep you out of government. The tax is quite a lot of money and you are only a sharecropper who constantly owes money to the land owner. You are certain that every time you take your crops in to be sold you are cheated out of money. However, you cannot prove the cheating. The end result of your hard work is that you are constantly in debt. Coming up with enough money to feed your family is a problem and voting seems to be an impossibility since food comes before principles. **Create a skit to depict the problem you are facing with trying to vote. Include in your skit a description of the rights which you think the Constitution guarantees to you.**

3. In order to vote you have to pass a test to prove that you can read and write. However, when you were of school age you were in the cotton fields planting, tending, and picking cotton. You are intelligent and know quite a bit about politics because you listen to others talk. Since the end of the Civil War you have convinced a friend of yours to teach you to read and write. You can now read names and a few simple words. Your problem is that you want to vote in the upcoming election but everyone has to pass a literacy test before s/he can vote. You are afraid that the test will be too hard for you. You also know that the white people who give the test make sure that blacks get harder tests than whites. Voting seems to be an unattainable dream. **Create a skit to depict the problem you are facing with trying to vote. Include in your skit a description of the rights that you think the Constitution guarantees to you.**

Handout #1, continued

4. One of the people in your group is Homer Plessey. He is an African American who refused to leave a railroad car which was reserved for whites only. Having separate facilities for blacks and whites was common in the late 1800s and early-mid 1900s. Mr. Plessy is arguing that his 14th Amendment right to "equal protection under the law" is violated when he has to sit in a different railroad car. However, in 1896 when the Supreme Court decided on this case (Plessey v. Ferguson) they said that it was legal to segregate, or separate, the races as long as the facilities for both were equal. You and your friends are afraid of how far this "separation" will go and you are concerned that the facilities will not be "equal". **Create a skit to depict the problems you and your friends are facing with segregation. Include in your skit a description of the rights which you think the Constitution guarantees to you.**

5. The members of your group are seniors in high school. You are looking to enroll in college for the following year. However, there are only a limited number of colleges that will accept your applications because you are black. You decide to try and beat the system and prove a point by submitting your applications to the colleges you want to attend. You receive responses to the applications and all are denials of admission. Since you did not list your ethnic background you are interested as to why you have been denied admission to the schools. After talking with the office of admissions of various schools you find that you have been denied access to the schools because you did not take two years of a foreign language, second year chemistry, and calculus. It is obvious to them that you did not prepare to go to college and that there are many more applicants who are much more qualified than you. You are furious with this information. Your school never has, and most likely never will, offer these classes. In addition, when you ask to enroll in these classes at the "white" school you are denied. **Create a skit to depict the problems you and your friends are facing with segregation. Include in your skit a description of the rights you think that the Constitution guarantees to you.**

Handout #1, continued

6. Jamie, one of the people in your group, has recently graduated from college and is looking for a job. There is a position open for a journalist in the city's biggest newspaper and Jamie decides to apply for the job since s/he was a journalism major and it would be a good starting position. The application is received and responded to positively. Since their application did not ask about race Jamie wonders how the paper will respond to the possibility of having a black journalist on staff. When s/he walks in for the interview the personnel director gets a strange look on his face. Instead of being asked about experience and qualifications in news the interviewer asks if s/he has ever worked nights before. The personnel director does not even look at Jamie's portfolio of work. When he is finished asking about health, personal strength, and ability to get along with others he offers a job to Jamie as the night custodian. It is obvious that s/he was not even considered for the journalist position. When confronted on the matter the personnel director says "that is the job available, take it or leave it." Five days later a new journalist is introduced in the city paper. The article states that he was hired one day after your interview. It is obvious that this person received the job that Jamie applied for and was not given a chance to receive. **Create a skit to depict the problems you are facing with job discrimination. Include in your skit a description of the rights you think that the Constitution guarantees to you.**

7. Your family has recently decided to move away from the inner city and experience the American dream of owning a home in the suburbs. Your family researches different areas where the community seems healthy, quiet, and peaceful. The idea of getting a new home is exciting to all of your family. You set out to look at homes with the realtor. Soon you realize that all of the homes the realtor is showing you are in low income, run down sections of the city. A point is made to tell the realtor that you are not interested in this type of community and that you have enough money to pay for a nicer home. The realtor takes you to another section of the city but it is not much better than the first. At this point you tell the realtor that you would like to go to the "Summerhaven" subdivision and look at what is available there. The realtor says "Summerhaven is not an area where you should consider living. No one wants you there and I'm certain that you do not want to move where no one wants you." It is obvious at this point that you will not be shown the types of homes you are interested in because your family is black. **Create a skit to depict the problems you are facing with discrimination. Include in your skit a description of the rights you think that the Constitution guarantees to you.**

Handout #2

1964 Civil Rights Act Summary

Voting Rights
Denial of the right to vote based upon race, color, religion, or national origin is prohibited. A commission is established to investigate voting fraud.

Segregation
Discrimination on the basis of race, color, religion, or national origin in restaurants, hotels, motels, gas stations, auditoriums, lunch counters, etc. is prohibited. Private clubs remained exempt.

Public operated facilities, such as parks, may not be segregated.

Public Education
Public schools must plan and implement desegregation programs.

Federal Finance
Discrimination based on color, race, or national origin is not permitted with any federally financed program.

Employment
Businesses with 25 or more employees can not discriminate on the base of race, color, religion, sex, or national origin. An Equal Opportunity Commission was established to investigate discriminatory employment practices.

*Adapted from *The Longest Debate: A Legislative History of the 1964 Civil Rights Act.*

Handout #3

Oral Interview Suggestions

1. When conducting an interview be sure that you receive permission from the subject. Fully explain what the project is about and what the information will be used for.

2. If you do not write quickly you might want to bring along a tape recorder. It is easy to miss little details of an interview when you are trying to write everything down. If you choose to use a tape recorder, be sure your subject does not object to being recorded.

3. Prepare your questions in advance. Be thorough about your topic and think through all of the different angles from which you want to approach the topic.

4. Find a variety of subjects. The more perspectives you have about a topic, the more rounded and accurate your end product will be. Be careful not to make generalizations about the entire country based upon a regional sampling.

5. Be courteous. Remember to thank your subject for his or her help.

6. Make sure that you accurately record the information. No one likes to be misquoted.

7. Practice your interview with a friend before your actual interview.

Suggested questions:

- What is your name?
- Where were you living in the 1960s?
- How old were you when the 1964 Civil Rights Act was passed?
- Were you involved in or affected by any protests during this time? Were any of them related to the Civil Rights Act?
- Did you ever see or experience discrimination against minorities prior to 1964? If so, please explain.
- Have you seen or experienced Discrimination since 1964? If so, please explain.
- Do you remember the 1964 Civil Rights Act? Please explain what you remember.
- Why do you think it took so long for things to change to occur?

Develop further questions based upon the 1964 Civil Rights Act.

The Fourth Amendment and the Drug Courier Profile: United States v. Sokolow

Daniel J. Hanson
Attorney, Des Moines, Iowa

Pat Larson
Iowa Center for Law and Civic Education
Drake University, Des Moines, Iowa

INTRODUCTION

May law enforcement officers stop and briefly detain someone for investigative purposes simply because he or she appears to meet certain characteristics attributed to criminal behavior? A decision (Sokolow) was handed down by the Supreme Court in 1989 in the case of a man seized by agents of the Drug Enforcement Agency.

Students are (1) introduced to the specifics of the Fourth Amendment; exceptions to the search warrant; and such basic legal concepts as the exclusionary rule, standards of proof, and the legal actions dependent upon the difference between "reasonable suspicion" and "probable cause"; (2) then asked to apply these legal principles to the Sokolow case.

GOALS

By the end of this lesson, students will:

- Know at least five exceptions to the Fourth Amendment requirement of a search warrant.
- Know the meanings of "exclusionary rule," "standards of proof," and the difference between "reasonable suspicion" and "probable cause".
- Analyze the Fourth Amendment by examining a case in a moot court simulation.

GRADE LEVEL

Middle and senior high school

TIME NEEDED

One to two class periods

MATERIALS REQUIRED

1. Four overheads
2. Two student handouts

PROCEDURE

A. Discuss with students the following scenario. What's peculiar about this story?

Two police officers pound on your front door, and when you answer it they say they're coming in to search your house. They proceed to examine the papers in your desk, the books in your bookcase, and even your computer disks.

Students probably will be quick to say that the officers need either a search warrant or your consent to search your home. Ask what keeps the police from coming into your home anytime they feel like it.

B. Show Overhead #1 (The Fourth Amendment) and discuss the historical background and the importance of the Fourth Amendment in protecting our privacy and other First Amendment rights.

C. Ask students if they think we would really have a free country without the Fourth Amendment or is this a criminal-coddling amendment?

D. Examine the specifics of the Fourth Amendment:

1. Ask students to brainstorm class definitions of important terms: unreasonable searches and seizures, warrants, probable cause.

2. Use a resource person to discuss the requirements of the Fourth Amendment. What happens if the police violate the Fourth Amendment? Discuss the Exclusionary Rule.

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Note that defense attorneys will "move to suppress evidence" if they believe evidence was illegally obtained.

3. Ask students if they know of any exceptions to the search warrant requirement, write their answers on the board using the SEARCH acronym for organization. Compare these with Overhead #2, the Exceptions to Search Warrant Requirements.

4. While explaining "reasonable suspicion" and "probable cause," use overheads #3 (Terry v. Ohio) and #4 (Standards of Proof). The case we will be examining will hinge on this very issue.

E. Now we will see if you can apply your knowledge to a case. Distribute to students a summary of the Sokolow case and ask them to read it to themselves. Review with the class the facts of the case and the legal issue which the Supreme Court had to decide. Note that at the appeal court level, the facts are not in questions, only issues of law: Was the law interpreted and applied correctly? Chart facts and issue on board.

F. Divide the class into three groups. Assign one group of nine to act as the Supreme Court. Assign the other two groups to act as petitioner and respondent.

G. Allow each group to meet for ten minutes to brainstorm arguments in support of their side. After brainstorming, each group will develop and refine their arguments and select a spokesperson/attorney. The Supreme Court group will select a Chief Justice and prepare questions to ask each group. The resource person moves from group to group assisting.

H. Attorneys will have three minutes to argue their side. The petitioner goes first and is given a one-minute rebuttal after the respondent's argument.

I. The judges are allowed up to two questions for each of the attorneys.

J. Allow the justices to deliberate in front of the class. The Chief Justice will call for a vote after deliberation.

K. Debrief the activity, comparing the procedures, arguments, and decisions of the moot court with the real case. Highlight the better-developed arguments. Distribute Handout #2 which summarizes the court's decision and the arguments for the majority and the dissenting opinions.

TIPS FOR THE TEACHER

Search - In general, a search is any forcible seeking out, prying into hidden places, exploratory investigation or quest. More specifically, the Supreme Court has defined a search as "any governmental violation of a person's reasonable and justifiable expectation of privacy."

Seizure - A seizure is defined as a sudden forcible grasp, a taking into possession, a taking into physical custody or control. Again, for legal purposes, a seizure involves governmental action.

Probable Cause - The Fourth Amendment prohibits law enforcement officers from searching or seizing people or their property unless there is probable cause - a good reason for suspecting a person of breaking a law. The criteria used to establish probable cause are difficult to define. Generally, at the moment a law enforcement officer decides to arrest a person, he or she must have reliable knowledge gained from direct contact with the suspect or from a trustworthy source that the suspect either has already committed a crime or was doing so at the time of arrest.

Requirement for Warrant - A magistrate or judge must determine that there is cause in order to issue a warrant. The warrant must specifically describe "the place to be searched and the persons or things to be seized." A judge cannot give law enforcement officers a warrant that enables them to search for anything they please, to go on a "fishing exhibition."

Exclusionary Rule - Any evidence seized illegally by law enforcement officials cannot be used to convict the accused at trial. It also applies to evidence obtained from illegal questioning of the accused.

Exceptions to Search Warrants - Not all searches, however, require a warrant. There are numerous times when law enforcement officers can't wait for a warrant. For example, police may be on the scene of a violent crime or a robbery in progress. If they did not arrest the suspect, the person might injure others or escape. Overhead #2 lists most of the exceptions to a search warrant:

- **Stop and frisk** - A police officer who reasonably thinks a person is behaving suspiciously and is likely to be armed may stop and frisk the suspect for weapons. This exception to the warrant requirement was created to protect the safety of officers and bystanders who might be injured by a person carrying a concealed weapon.

- **Emergencies** - These situations include searching a building after a telephoned bomb threat, entering a house after smelling smoke or hearing screams, and other emergency situations in which the police don't have time to get a warrant.

- **Search incident to a lawful arrest** - This is the most common exception to the warrant requirement. It allows the police to search a lawfully arrested person and the area immediately around that person for hidden weapons or for evidence that might be destroyed.

- **Abandoned property** - If property has been left someplace it could be examined by others, the owner has no reasonable expectation of privacy from governmental examination of the property.

- **Airline/border searches** - Customs agents are authorized to search without warrants and without probable cause. They may examine the baggage, vehicle, purse, wallet, or similar belongings of people entering the country. Body searches or searches conducted away from the border are allowed only on reasonable suspicion. In view of the danger of airplane hijacking, courts have also held it reasonable for airlines to search all carry-on luggage and to search all passengers by means of a metal detector.

- **Right in plain view** - If an object connected with a crime is in plain view and can be seen by an officer from a place where he or she has a right to be, it can be seized without a warrant. For example, if a police officer issuing a routine traffic ticket observes a gun on the seat of the car, the officer may seize the gun without a warrant.

- **Cars** - An officer who has probable cause to believe that a vehicle contains contraband may conduct a search of the vehicle without a warrant. This does not mean that the police have a right to stop and search any vehicle on the streets. The right to stop and search must be based on probable cause.

- **Consent** - When a person voluntarily agrees, the police may conduct a search without a warrant and without probable cause. Normally, a person may grant permission to search only his or her own belongings or property. In some situations, however, one person may legally allow the police to conduct a search of another person's property (e.g., parent-child).

- **Hot pursuit** - Police in hot pursuit of a suspect are not required to get a search warrant before entering a building that they have seen the suspect enter. It is also lawful to seize evidence found during a search conducted while in hot pursuit of a suspected felon.

Reasonable Suspicion and Probable Cause - In 1968, the Supreme Court in *Terry v. Ohio, 392* U.S. 1, ruled that police can stop and only briefly detain a person if they have a reasonable suspicion supported by articulable facts that criminal activity may be afoot. Under this standard -- which is much less difficult to meet than probable cause, they must have more than a hunch -- they must have some specific facts to justify their suspicion. But those who meet the reasonable suspicion standard can be only briefly detained, while those who have met the probable cause standard can be searched and any evidence found can be seized. However, during a brief detention, some sufficient information may be uncovered which can be used to justify a search warrant and thus lead to a full-scale search.

Unfortunately, neither the reasonable suspicion standard nor the probable cause standard conform to a neat set of legal rules, so an agent cannot look at a checklist and say that if people met certain criteria they could be stopped for reasonable suspicion, but if they met a different set of criteria they could be searched based on probable cause. Instead, this is a constantly evolving area of the law.

Exclusionary Rule - What happens if the police ignore the requirements of the Fourth Amendment? In order to keep the police from violating the law, the courts developed in a 1914 case "the exclusionary rule." This rule excludes evidence obtained by law enforcement officers while violating rights protected by the Constitution. The rule is most often used to exclude evidence gained from illegal searches and seizures, calling illegally-obtained evidence "fruit from a poisoned tree." It is also used to exclude evidence obtained in violation of the Fifth Amendment right against self-incrimination and the Sixth Amendment right to counsel.

BIBLIOGRAPHY

- *Exceptions to Search Warrants* was adapted from *Criminal Justice in America,* (1991), Constitutional Rights Foundation, Los Angeles, CA.
- *Standards of Proof Used to Prove a Fact In a Court of Law* was adapted from the Fall 1982 issue of *Update on Law-Related Education* published by the American Bar Association Special Committee on Youth Education for Citizenship, Chicago, IL.

Facts in the Sokolow case (Handout #1) were adapted from a handout by the National Institute for Citizen Education in the Law, Washington, D.C.

FOURTH AMENDMENT

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

(Overhead #1)

EXCEPTIONS TO SEARCH WARRANT REQUIREMENTS: SEARCH

S - Stop and Frisk

E - Emergencies

A - Arrests, abandoned property, airline/border search

R - Right in plain view

C - Cars, consent

H - Hot pursuit

Note: Recent rulings by the U.S. Supreme Court have expanded the number of allowable exceptions to search warrants

(Overhead #2)

STANDARDS OF PROOF USED TO PROVE A FACT IN A COURT OF LAW**

LEAST SUFFICIENT				MOST SUFFICIENT
Guess or a Hunch	Reasonable Suspicion	Probable Cause	Preponderance of Evidence	Beyond Reasonable Doubt
			(Burden of proof in criminal trials)	(Burden of proof in civil trials)

* * * * * * *

The Cookies Are Missing

Your 4-year-old brother Billy is in kitchen	Billy is sitting at the table with a glass of milk and a happy face	No one else has been seen in the kitchen	Billy with a partially full glass of milk, cookie crumbs near his glass	Same, but you can see cookie in his mouth.

* * * * * * *

Supreme Court (1925):
Probable Cause exists when there are enough facts to persuade a reasonably prudent person to believe that a crime is being or has been committed.

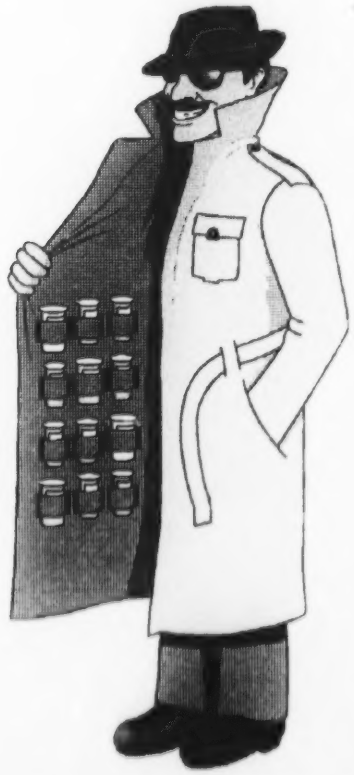
(Overhead #3)

Terry v. Ohio (1968)

Police can stop and briefly detain a person if they have "a reasonable suspicion supported by articulable facts that criminal activity may be afoot."

Only those who have met the "probable cause" standard may be searched.

(Overhead #4)



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Handout #1

United States v. Sokolow, 490 US 1, 104 L Ed 2d 1, 109 S Ct 1 (1988)

FACTS

Andrew Sokolow went to the United Airlines ticket counter at Honolulu Airport, where he purchased two round-trip tickets for a flight to Miami. The tickets were purchased in the names of "Andrew Kray" and "Janet Norian," and had open return dates. Andrew Sokolow paid $2100 for the tickets from a large roll of $20 bills, which appeared to contain a total of $4000. He also gave the ticket agent his home telephone number. The ticket agent noticed that Mr. Sokolow seemed nervous; he was about 25 years old, wore a black jumpsuit, and wore gold jewelry. He was accompanied by a woman, who turned out to be Janet Norian. Neither checked any of their four pieces of luggage.

The ticket agent informed an officer of the Honolulu Police Department of Sokolow's cash purchase of tickets to Miami. The officer determined that the telephone number Sokolow gave to the ticket agent was subscribed to "Karl Herman" -- (unbeknownst to the officer, Sokolow was Herman's roommate). The ticket agent identified Sokolow's voice on the answering machine at Herman's number. The officer subsequently learned that return reservations from Miami to Honolulu had been made with their arrival scheduled for July 25 (they stayed in Miami only 48 hours, even though a round trip flight from Honolulu to Miami takes 20 hours).

Sokolow and Norian arrived in Honolulu. As before, they had not checked their luggage and Sokolow was still wearing the black jumpsuit and gold jewelry. The couple proceeded directly to the street and tried to hail a cab. Four DEA agents approached them, one officer displayed his credentials, grabbed Sokolow by the arm and moved him back to the sidewalk. In the original trial, one of the agents testified that the traveler's behavior "had all the classic aspects of a drug courier." A "drug courier profile" standard has been used by agents since 1974 to identify drug smugglers based on certain attire and behavioral patterns.

Sokolow told the agents that his name was "Sokolow," but that he was traveling under his mother's maiden name, "Kray." Sokolow and Norian were escorted to the DEA office at the airport. There the couple's luggage was examined by a narcotics detector dog which alerted to Sokolow's brown shoulder bag. The agents arrested Sokolow and advised him of his Constitutional rights. The agents obtained a warrant to search the shoulder bag and found no drugs, but the bag did contain documents indicating involvement in drug trafficking. The dog reexamined the remaining bags and alerted to a medium size bag. The next day the agents obtained a warrant and found 1063 grams of cocaine inside the bag.

The U.S. District Court for Hawaii denied his notion to suppress the cocaine and other evidence finding that DEA agents had a reasonable suspicion he was involved in drug trafficking when they stopped him at the airport.

The U.S. Court of Appeals for the Ninth Circuit reversed, holding that the DEA agents did not have a reasonable suspicion to justify the stop. They reasoned that for purposes of the Fourth Amendment, reasonable suspicion must be founded upon evidence of "ongoing criminal behavior," even though probabilistic evidence (attempts to identify the type of person who may be engaged in criminal activity) may serve to confirm or deny such behavior evidence. The court of appeals stated that probabilistic evidence alone without any other evidence is insufficient to create a reasonable suspicion. The case was appealed to the U.S. Supreme Court.

ISSUE

Whether the agents had reasonable suspicion that Sokolow was engaged in wrongdoing when they encountered him on the sidewalk.

Handout #2

THE SUPREME COURT'S VERDICT IN THE SOKOLOW CASE

THE MAJORITY OF THE COURT

On April 3,1989, by a vote of seven to two, the Court ruled that law enforcement officers may stop and briefly detain someone for investigative purposes simply because he or she appears to meet certain characteristics attributed to criminal behavior.

Chief Justice Rehnquist spoke for the majority. He noted that each of the acts Sokolow performed, taken by themselves, might have been totally innocent. However, when taken together, they warranted further investigation.

There was nothing illegal about Sokolow paying for his plane tickets with $2,100 in cash, traveling to Miami - a city known for its drug activity -- traveling a total of 20 hours to stay two days in Miami in July, appearing nervous, and not checking any luggage, Rehnquist said. But the totality of these events did raise suspicion.

The majority stated that the fact that agents may have relied on criteria listed in the drug courier profile was irrelevant, since the factors they noted in Sokolow's behavior had evidentiary value whether or not they were found in the courier profile. The Court said the appropriate standard required police to look at "the totality of the circumstances" in deciding whether or not a stop can lawfully be conducted.

THE DISSENT (Justices Marshall and Brennan)

The two justices who disagreed with the majority argued that because the strongest advocates of Fourth Amendment rights are frequently criminals, it is easy to forget that our interpretations of such rights apply to the innocent and the guilty alike.

The concept of reasonable suspicion is to be used only for brief detentions aimed at stopping ongoing crimes or preventing crimes that are imminent. It is highly significant that DEA agents stopped the traveler because he matched one of the DEA's "profiles."

The majority's hasty conclusion serves only to indicate its willingness, when drug crimes or anti-drug policies are at issue, to give short shrift to constitutional rights.

There simply was no evidence that Sokolow was in the process of committing a crime or was about to engage in criminal activity. He was stopped primarily because he appeared nervous, which in this era of proliferating plane crashes and near-collisions could be a totally normal state of behavior.

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"Pick the Process: Examining Regionally Relevant Issues Through Negotiated Settlement, Mediation, Arbitration, and Litigation."

Mary Schuler
Kraxberger Middle School
Gladstone, Oregon

ABSTRACT/INTRODUCTION

This lesson is designed to study an issue through four legal models: negotiated settlement, mediation, arbitration, and litigation. This framework may be adapted for study of various controversial issues that are regionally relevant; the Northwest timber controversy is outlined in this lesson.

GOALS/OBJECTIVES

As a result of this lesson, students will be able to compare and evaluate the adversarial aspects of litigation with the conciliatory aspects of the alternative dispute resolution methods of settlement, mediation, and arbitration.

SUBJECT/GRADE LEVEL/AUDIENCE

Subjects in which this lesson may be taught include: social studies, English, speech, debate, civics, law, and history. The appropriate grade level is middle school through high school.

TIME REQUIRED

Implementation requires fifteen 50-minute class periods. NOTE: This entire lesson is designed to be reduced to individual mini-lessons which would incorporate a singular conflict resolution method such as mediation.

MATERIALS NEEDED

Classroom for questioning.

PROCEDURE

Days one and two:
Develop background of regional issue through current event discussion format. Ask students for regional issues which concern them. Have students list issues around the room. Encourage students to discern if there is a clear pro and con position to the issue or if the issue incorporates many diverse positions. Have students write pro and con under each issue and a word or picture that identifies that position. Incorporate a continuum within the classroom in which students walk to and take a stand for a position at one point of the classroom and similarly for the opposite position far from the first position. Encourage students to take median positions between the two extremes. Ask students to state the most persuasive argument from the position they have taken and one from the opposite position.

Day three:
Choose one issue to develop and use as the focal point of lesson. Skeletal background of Northwest timber issue (as an example):

There is extreme paralysis within the Northwest states regarding the harvesting of timber. The keynote of the entanglement is the need to satisfy an economic framework developed over many generations based on logging timber and the need to satisfy the ecosystem balance of the natural resources. The deadlock of the parties is a result of divergent policies elicited from integral governmental bodies including the Forest Service, Bureau of Land Management, and park system, plus lack of comprehensive long term administrative policy. Parties include: labor factions, environmentalists, timber industry, timber families, Native Americans, and advocates for the salmon, the spotted owl, and the ancient forests. A friction develops between the timber industry and parties protective of ecosystems. It is this natural friction that makes this lesson parallel to regional issues throughout the U.S.

Days four and five:
Use small groups to further develop background.

Divide students in four groups that singularly develop a timeline incorporating news items, personal notes, and photos. Each of the four groups will subsequently develop one of the four models.

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Relevant facts and timeline of the spotted owl issue indicates the progression of the parties toward adversarial positions:

- From late 1800s to the present there is an on going need for timber supply. There is an interlocking of various economic groups of the region to the harvesting of timber. Thousands of workers throughout the Northwest rely on timber harvesting for their income.
- In 1973, Oregon listed the spotted owl as a threatened species and the Federal Government followed in 1990. There is a recognition of the interrelatedness of humans and declining species. Thousands of individuals align themselves with various protectionist positions.
- Court injunctions are put in place when Environmental Impact Statements (which require addressing threats to habitat) are not prepared for logging sales. Judicial log jams are now part of the scenario.
- In 1992, Judge Dwyer of Washington State issued a permanent injunction on Forest Service sales in owl habitat until a scientifically-based plan is established.
- President Clinton addressed the issues by calling for a meeting of involved parties in a roundtable format in Portland, Oregon in April, 1993. He keynoted the conference by calling for common ground, specific guiding principles, and the stated persuasion to continue beyond deadlock in subsequent discussions. Judge Dwyer's requirement of scientifically-based plan may become a reality.

Days six and seven:
Initiate study of four legal models as relevant to students. Identify the individual groups by large cards separately labeled: negotiated settlement, mediation, arbitration, and litigation. Compare student relevant issues and resolution of those issues to each process. Discuss all models/process with the entire class. Encourage students to roleplay examples of each process as the process is developed through discussion. Avoid teaching of specific steps and skills of each process until students have experienced the role playing of each model relevant to their lives. Tell the students that they already know a great deal about most of these processes, just not by name.

Negotiated settlement

Negotiated settlements occur each day between our peers, parents, employers, and in business resolutions. Encourage students to offer scenarios of settlement that have occurred in their lives. Examples will include conflicts with parents, teachers, and friends and the resolution or lack of resolution over those issues. Include examples of Congressional settlement. Work towards the concept that life constantly requires this process. Teach that the process requires skills not often taught as actually having steps. Separate the formal learning of these steps compared to the less structured negotiations that the students already use. Ask if in using this process parties may achieve a common ground of resolution of the issue. Work toward the concept that parties using this model may achieve a result where both parties win or achieve some of that which they wanted. Ask for examples. Begin to role play.

Mediation

Mediation employs a third party who aids in the resolution of the conflict. Mediation is used in many adult conflict settings such as divorce settlements, especially when children are involved. It incorporates the skills of active listening, respect for need of resolution, and acknowledgement of an ongoing relationship between the parties. Stress the acknowledgment that conflict is inherently a part of the human internally, between individuals, groups, and nations. Stress the naturalness of conflict. Include in the discussion the three levels of conflict found within literature and video; that is person vs. person, person vs. another, and person vs. nature. Teach that in the mediation model a third person asks or is asked to be a sounding board for the other two individuals who have the conflict. Teach that in this model the third party may or may not come up with a solution that parties will adopt. Ask if in using this model/process parties may achieve or work toward common ground. Work toward the concept that both parties using this model may achieve or win some of their goals. Ask for examples and role play.

Arbitration

Arbitration is generally employed in unique dispute settings. It may be appropriately taught as the logical escalation of mediation. It may be used in labor dispute format, corporate issue

resolution, and for many international issues. It may be employed where no common court is appropriate. It may be binding arbitration in which the decision of the arbitrator carries the weight of law. In arbitration the parties go through a process to pick the arbitrator. Teach that arbitration is becoming the process used to resolve consumer purchase disputes between buyer and seller. Ask if using this model may help parties to achieve a common ground. Work towards the idea that both parties using this model may achieve some of their goals. Teach that this model/process is more akin to the judicial trial where generally one party wins. Ask for examples and role play.

Litigation

Litigation is employed when a court of law is chosen to resolve a dispute. It is certainly the most formal process to be studied. It employs procedures including how and when parties may present their sides of the issue. It is the most pervasive formal structure of our judicial system. It may be discerned as adversarial in nature. Stress that the use of litigation often breaks down the interest to find a common ground, breaks down the ability to give and take on a issue, and generally separates parties from having a positive future relationship. Ask why that is so. Work towards the fact that court proceedings generally result in winners and losers. Ask for examples of trial. Students are knowledgeable of trial procedure prior to formal teaching as a product of television and movies. Ask for examples and encourage roleplay.

Day eight:
Use the following as point of review and evaluation. Direct students to write as titled sections: negotiated settlement, mediation, arbitration, and litigation, equally separated on the back and front on a piece of paper. Direct students to write in information in the form of phrases, words, sentences, or pictures in those sections that they remember from the past few days. Encourage students to visualize and then draw the examples that were acted out. Direct students to state their information to someone near them. Direct students to incorporate in their lists some information that another just taught them. Encourage students to compare and exchange. Celebrate how much the students have already learned by encouraging more role playing. Act out your own examples with peers from the staff.

Days nine and ten:
Develop formal steps of each process. Direct students to write the titles of the four models on four papers in order to record ideas, drawings, and notes on the following information.

Formal steps of Negotiated Settlement.

Resolving conflicts through the alternative dispute resolution method of negotiated settlement successfully results in both parties attaining some of that which is important to them. As developed from Harvard Negotiation Project and also through Temple-LEAP, the steps include:

The parties begin by individually clarifying the problem with pre-negotiation:

- State the parts of your position in order of importance.
- State the parts of the other party's position as closely as you understand it in order of importance.
- State your best alternative and worst alternative.
- State the information that you want to protect and the information that you want to divulge. The parties then work through the steps of negotiation with face to face negotiation.

Parties follow these priorities:

- Focus on interests of the parties, not positions.
- Invent options that benefit both sides.
- Rely on objective criteria and evaluate risks.
- Achieve the best alternative to a negotiated agreement (= BATNA). Focus on a result in which both parties win. Find a position that helps people.

Formal steps of Mediation

The alternative dispute resolution method of mediation involves a third party helping to resolve conflict through trust. It is an inexpensive, voluntary, and confidential alternative to trial. It is likely for a mediator to achieve unexplored results. It is very rewarding for the mediator.

Steps of mediation as developed by Oregon Law Related Education:

- After introductions, the neutral mediator asks if parties would like to solve the problem.
- Parties agree to ground rules: to solve the problem, not interrupt, no name calling, and to tell the truth.
- Mediator asks person #1, "What happened? How do you feel?"
- Mediator repeats using active listening.
- Mediator asks person #2 the same and repeats answer.
- Mediator asks person #1, "Do you have a solution?"
- Mediator asks person #2, "Do you agree to that solution or do you have another solution?"
- Mediator helps parties get to solution that they both think has value.
- Parties tell each other what they agree to.
- Congratulations all around.

Formal steps of Arbitration

The dispute resolution method of arbitration is quasi-judicial process in which a lawsuit is resolved tentatively or finally by having the arbitrator resolve the issue. It is generally cheaper, faster, and allows parties more flexibility than a trial. It was historically developed from labor disputes. Arbitration may be required by contract or by statute. Arbitrators may be picked from established lists and are obliged to same judicial rules as judges.

Steps and benefits of formal arbitration:

- Parties pick an impartial arbitrator; the parties themselves choose the judge.
- The process itself is efficient and informal: no pre-trial procedures and no involved pleading or discovery. It is more comparable to a hearing.
- This process is private compared to a trial. The parties' natural feelings of confrontation may be reduced in this type of setting.
- The value of a positive on-going relationship between the parties is enhanced with possibility of continued negotiation between the parties. Some arbitration is binding but most may be appealed.
- Parties state positions and relevant information. Hearsay rules may apply.

Formal steps of litigation

Litigation is expensive economically and emotionally. It is unpredictable except that it results in winners and losers. It is very dramatic and impressive. It is integral to our judicial fabric because judicial decisions become case-made law.

- Jury selection known as voir dire and pre-trial motions.
- Opening statements by plaintiff/prosecution in which summaries of key facts, circumstances, and parties are presented.
- Opening statement by defense.
- Direct examination of witness by plaintiff/prosecution. No leading questions allowed. This "the case in chief."
- Cross examination of plaintiff's witness by defense.
- Mid-trial motions of directed verdict in civil case by defense and, in criminal matters, motion for acquittal.
- Direct examination of witness by defense.
- Cross examination of defense witness by plaintiff/prosecution.
- Post-trial motions.
- Closing argument by plaintiff/prosecution.
- Closing argument by defense.
- Rebuttal by plaintiff.
- Jury instructions on specifics including law to be followed.
- Jury verdict or decision of judge (in bench trial).

Days eleven and twelve:
Individual group time to develop presentations.

Days thirteen and fourteen:
Class presentation time by groups.

Day fifteen:
Allow time for debriefing and evaluation.

EVALUATION
Use the "concept mapping" format for evaluation. (Sample provided)

Create and include:
Direct students to create multi-box grid with the four models listed across the top of the paper and other areas identified on the side the such as:

- Do both parties win in this model?
- May this model be used in criminal as well as civil issues?
- Does this model allow parties to vent feelings?
- Does this model require an attorney?
- What alternative outcomes are available with this model?
- Compare two models using personal life issues.
- Compare two models using international issues.

DEBRIEFING/SUMMARY/CLOSURE
Encourage students to evaluate their own learning. Ask each group to state the most persuasive reason why their process is most effective and least effective in which settings. Ask students to organize, summarize, and analyze information on large sheets displayed around the room with titled headings of four processes. Sheets would include pictures, words, phrases, sentences.

Connecting arrows, question marks, and other symbols would be included by students if encouraged. Conclude with more continuums. role playing, and life examples of various models to help students integrate and retain this valuable lesson. Encourage students to imagine positive outgrowths of this lesson within themselves, peers, and parents. Encourage students to imagine positive outgrowths of this lesson within their region, nation, and world.

TIPS FOR THE TEACHER
To further develop the teaching of negotiated settlement, refer to negotiation style and most often used tactics and common mistakes as developed by D. Vanderhoof, Temple-LEAP. Refer to "Putting on Mock Trials" edited by Richard L. Roe for well developed teaching ideas for mock trials and to Betsy Coddington, Classroom Law Project, Portland, Oregon, for further work on mediation. (See bibliography)

BIBLIOGRAPHY

- Vanderhoof, David J.W., "The Judge Has Spoken. What Now?" Philadelphia, PA; Temple-LEAP; 1993.
- Coddington, Betsy, Ed., "Mediation in the Schools, Teacher Manual" Portland, OR; Classroom Law Project; Updated 1992.
- Roe, Richard L., Ed., "Putting on Mock Trials" Chicago, IL; American Bar Association.

CHART FOR CONCEPT MAPPING

	NEGOTIATED SETTLEMENT	MEDIATION	ARBITRATION	LITIGATION
Do both parties win?				
Suitable for criminal and civil disputes?				
Parties allowed to vent feelings?				
Attorney required?				
Alternative Outcomes				
Helpful in personal/life issues?				
Helpful in international disputes?				

Law and Order: As Different As Pigs and Bicycles

Phil Lewis
Columbia Falls High School
Columbia Falls, Montana

INTRODUCTION

This lesson will enable students to compare and contrast law in different societies throughout the world. Students will read about, discuss, and roleplay crisis situations that other societies and people perceive as unlawful or detrimental to their system of order.

AUDIENCE

Grades 7-12

TIME REQUIRED

Three to fifteen classroom periods, depending upon the complexity of the issue studied

OBJECTIVES

As a result of this lesson, students will:

- Learn that different people, societies, and cultures worldwide have varying interpretations of law and order.
- Analyze specific law-related incidents as they are perceived by the citizens of other sovereign states.
- Appreciate the importance of not judging other people through the rose-colored glasses of ethnocentric Americans.
- Be able to explain how law and order in other nations is relevant and directly related to the specific history, culture, values, goals, economics, ethics or religion of that particular state.
- Realize that through communication, understanding, non-judgmental attitudes, respect for diversity, and objectivity this planet has the tools to successfully address the problems that threaten our future.

KEY CONCEPTS/VOCABULARY

ethnocentric, xenophobia, judgmental, culture, theocratic, tradition, bias, prejudicial, discrimination, sovereign, perception, custom, global village, economic, due process, rule of law, constitutionalism, taboo, democracy, patriarchal, secular, dictatorship, matrilineal, sectarian values, consensus, cruel and unusual punishment, parochial.

PROCEDURE

1. The first step is for the instructor to choose a law-related incident that has occurred somewhere else in the world or in another culture that will be of interest and serve as the hook to actively involve the students in this activity. Possible examples:

a. caning of Michael Faye in Singapore for vandalism

b. public stoning of a young woman for sexual activity out of wedlock in Saudi Arabia

c. execution of Australian news correspondents in Malaysia for drug smuggling

d. jail sentence handed down to Chinese citizens actively participating in religious activity

e. amputation of the hand of a thief in a Moslem country

f. the murder of a New Guinea woman villager who fails to keep the pigs that she is tending out of a relative's garden

g. the tattooing of a woman's forehead where she is suspected of prostitution in India

h. the hanging of horse thieves or cattle rustlers in the old west and how this was diametrically opposed to the Native American system of elevating stature and respect through the stealing of an enemy's horses

i. infanticide - killing of an infant (usually female) as a method of population control (Inuit)

2. The next step is for the instructor to gather as much background information on this law-related incident as possible and then organize it for presentation to their students. The presentation of this information may take various forms:

- news clippings and magazine articles
- handouts put together by the instructor that explain and clarify the specifics
- videotapes that present the pertinent information in an objective manner Example: PBS special "Death of a Princess" (public stoning for sexual activity out of wedlock in Saudi Arabia).

3. Once the students are familiar with the background, facts, and results of whichever law-related incident you have chosen, have the students discuss or analyze the incident. (Note: Allow them to be judgmental, prejudicial, comparative to our society, and reactionary.) This can be done through:

- an instructor-driven discussion;
- an essay response to the incident from the student;
- a panel discussion; or
- pro/con debate format.

4. Now it is the time to remove the prejudicial and judgmental blinders that so often lead our students to see the world through the ethnocentric rose-colored glasses of our society.

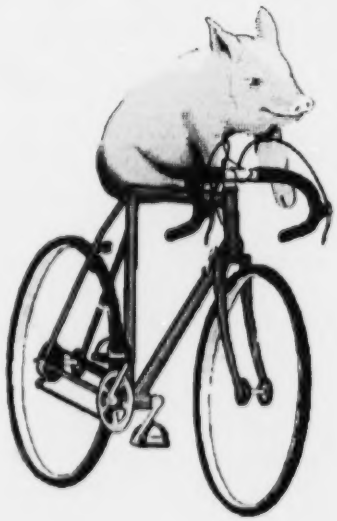
Provide the students with historical and cultural background of the people where the controversy occurred. Relate this to whatever goals that society is attempting to achieve. i.e., values, religion, economics, survival, or law and order

Example: The woman that was murdered in New Guinea was condemned by her village as a whole for her lack of responsibility; for putting the lives of others at risk. This, of course, can be difficult for many in our society to comprehend when in the U.S. such acts against society such as intoxicated drivers often result in a simple slap on the hand.

Now that the students have a more objective view of the incident, have them respond to it from the perspective of a member of the culture and society within which the controversy occurred.

This could be achieved through discussion, role playing, essay analysis of the society's rationale in this incident, or individual reports that, when discussed and analyzed as a whole, will allow us to comprehend the complexities and nuances that were not comprehended and perceived initially.

In debriefing the students, be sure to stress the importance of dealing with other nations through an objective non-judgmental approach. To paraphrase an old adage, "you can never really understand another until you have walked a mile in their shoes." It is imperative that the students realize that if the people of this planet are to successfully address the problems facing us, we must communicate and respond as a united global village to the many crises that threaten the future of mother earth. This cannot be achieved through the work and effort of any one nation or people, but only through a global effort that must be based on successful communication and understanding.



GENERAL DISCUSSION QUESTIONS

1. How do you perceive this incident from the perspective of our criminal justice system in America?

2. Does this incident violate our Constitutional principles or any of the basic concepts of law and order that we are familiar with?

3. How would you like to live in a society where law and order are maintained in this manner?

4. How would members of this culture or country perceive our system of justice in America?

5. Can you identify specific events in our country that might be difficult for others to comprehend from their perspective?

6. Why are Americans, the French, and Japanese perceived as ethnocentric societies by so many cultures?

7. How do the value system, mind set, goals, and life in general (of the people where the incident occurred) differ from those that are found in American society?

8. Explain how the outcome of this case study is related to the needs and goals of the people or government of this sovereign state.

9. Identify some law-related incidents that have recently occurred in the U.S. that other people would have a difficult time comprehending. Why?

10. How would this have been handled in our society? Others?

11. Brainstorm - what are some possible other alternatives that could have been used in dealing with this incident?

12. How do these alternative solutions correspond to the culture and goals of the people where the incident occurred?

13. How can improved understanding, communication, knowledge, non-judgmental attitudes, and appreciation for diversity aid nations, people, and cultures help us in finding solutions for the problems threatening this planet?

14. Brainstorm - on current crises that can negatively effect mankind i.e., global warming, ozone depletion, destruction of rain forests air and water pollution, AIDS, starvation, war and ethnic cleansing, slavery, nuclear proliferation, human rights violations.

15. What is the world currently doing on a cooperative international scale to address these crises? How can we improve the international response and success in addressing these issues?

ADDITIONAL ACTIVITIES

1. Use a local attorney as a resource in background information or as a guest speaker to increase the interest and relevance of the incident that is examined in the classroom.

2. Have an attorney or local judge review the written arguments that the students present in support or opposition of how this law-related incident is handled.

3. Hold a mock trial in the classroom where the students play the roles of the citizens of that nation and culture, but the judicial process is through our familiar adversarial system.

A Little Rebellion is a Good Thing: Shays' Rebellion

Gennie Westbrook
Calhoun High School
Port Lavaca, Texas

INTRODUCTION

Students will analyze the purposes of government, evaluate the Articles of Confederation, reenact Shays' Rebellion, and examine the demonstrated need for a stronger national government than that provided by the Articles of Confederation. The instructional method includes brainstorming, cooperative learning, and roleplay. Prerequisite understanding includes philosophy and weaknesses of the government under the Articles of Confederation

OBJECTIVE/GOAL

Students will:

- Analyze the purposes of government;
- Evaluate the Articles of Confederation;
- Participate in roleplay to reenact Shays' Rebellion;
- Compare the government described in the Preamble of the 1787 Constitution to that of the Articles of Confederation.

SUBJECT/GRADE LEVEL

U.S. History of the Revolutionary period, U.S. Government, upper elementary through high school.

TIME REQUIRED

Two to three 50-minute class periods

MATERIALS

Handouts:

- Philosophy and Weaknesses of the Government under the Articles of Confederation (Appendix 1)
- Role Play Outline (Appendix 2)

Transparencies (Masters Provided):

- Preamble of the Constitution (Appendix 3)
- Thomas Jefferson Quotes (Appendix 4)
- James Madison Quote (Appendix 5)

Role assignment cards:

- See list below in procedure description

Simple props (available in the classroom or brought by students): judge's robe/gavel, toy weapons, toy handcuffs, toy pitchforks, gingham apron for farmer's wife, straw hats for farmers, badge for sheriff, etc. Have students use their imaginations, not expensive or elaborate props.

PROCEDURE

Prior to the lesson, the teacher needs to make role assignment cards using 3" by 5" index cards, and to decide how many students will be assigned each role so that all class members will have a role. See parts listed below.

Students individually list three or four purposes of government. Students work in small groups of three or four to compare their individual lists and reach consensus on about five purposes of government. Groups report their lists of purposes; the teacher compiles a master list on chalkboard.

Small groups review **Handout #1** which reviews the philosophy and weaknesses of the government under the Articles of Confederation. The teacher assigns parts for reenactment of Shays' Rebellion and distributes role assignment cards. Parts may be adjusted to include all class members.

Tax collector: Mr. Collector (one or more)
Foreclosed farmer: Mr. Farmer
Foreclosed farmer's wife: Mrs. Farmer (children optional)
Banker: Mr. Banker
Judge: Your Honor
Sheriff: Sheriff Andy (additional deputies optional)
Daniel Shays
Guards at Springfield arsenal (two or more)
Massachusetts governor: Mr. Governor
Massachusetts militia and private **army**
Angry farmers (ex-Revolutionary War soldiers & officers)
Narrator

The Warren E. Burger National Repository for Educational Materials on Citizenship and the Constitution

The teacher directs each group of students to decide on a place in the classroom to represent each of the following locations:

- foreclosed farmer's house
- courthouse
- jail
- Springfield Arsenal
- Massachusetts governor's office

Students meet in small groups as described in **Handout #2**, to plan their dialogue and actions. The teacher visits each group to answer questions and read or hand out each scene description in Handout #2, so that students are comfortable with their respective roles and understand what to do in the actual reenactment. The roleplay itself is written as simply a skeleton plan so that students will be encouraged to improvise original dialogue and actions.

Students participate in the roleplay reenactment. To conclude roleplay, have each actor reiterate what he or she did and why.

The teacher directs the class to refer to the master list of functions of government generated earlier. Which of these functions was the government under the Articles of Confederation able to do? Which was it unable to do? Call for volunteers to suggest improvements to the Articles of Confederation. Ask students to respond as their characters in the roleplay might have responded.

Refer to the Preamble of the Constitution; either by looking it up in a textbook or by using the transparency master provided (Appendix 3). Discuss comparisons between the Preamble and the student-generated list of government functions. How did the Constitution of 1787 correct some of the problems seen in the Articles of Confederation? Refer to Articles 1, 2, and 3, in addition to the Preamble.

Evaluate the long-term significance of Shays' Rebellion. (It established the need for a stronger national government.)

Discuss Thomas Jefferson's quotes concerning Shays' Rebellion: Appendix 4 Transparency Master.

Writing assignment: One could use any number of writing assignments as a culminating activity for this lesson. Some questions to consider and have students respond to:

- Respond to James Madison's quote in Appendix 5. How does Shays' Rebellion illustrate Madison's ideas? What ideas should be included in a revision of the Articles?
- What was the best thing about the Articles of Confederation? What was the worst thing about the Articles?
- Review the Constitution, Articles I, II, and III, to identify specific ways the 1787 government corrected problems in the Articles.

EVALUATION

The teacher observes during the roleplay, offering corrective feedback if students make a substantive error. Otherwise, the teacher can make notes of minor errors to gently correct when students finish; let students use their creativity to embellish and have fun with the assignment. Upon completion of the reenactment, ask the students themselves to evaluate the lesson, describing the most important things they learned or ways the experience could have been improved. The teacher should offer praise for especially creative or perceptive contributions of student "actors."

DEBRIEFING

See above. How does this information affect your daily life?

TIPS FOR THE TEACHER

Ways to use resource people: bring in a lawyer to explain foreclosure/bankruptcy procedures, past and present.

BIBLIOGRAPHY

Remy, Richard C. *United States Government: Democracy in Action*, New York: Glencoe, Macmillan/McGraw-Hill, 1993.

We the People: A Secondary Level Student Text. Calabasas, California: Center for Civic Education, 1990.

Wilson, James Q. *American Government Institutions and Policies*. Lexington, Massachusetts: D.C. Heath and Company, 1992.

Appendix 1 HANDOUT #1

Philosophy and Weaknesses of the Government Under the Articles of Confederation

The political leaders of the thirteen states, coming from what they perceived as the tyranny of Great Britain, were determined to create, not just a new government, but a new form of government. They attempted to embody the principles set forth in the Declaration of Independence in a government which could not violate the rights of the people. Though there was no government at the time which did so, the colonists were determined to build one based on consent of the governed, which provided for protection of natural rights, limitations of a written constitution, and legislative supremacy.

Members of Congress worked from 1776 to 1777 to produce a plan for such a government, and it took the states about four more years of debate before all of them approved it. In 1781, the same year as the last major battle of the American Revolution, the Articles of Confederation became the first national government of the United States of America. In this constitution, the states made sure they could control the national government, acting on their fear of a central government that could abuse its powers and trample upon the rights of the people.

Under the Articles of Confederation, the national government

Could:	Could not:
make peace	levy taxes
declare war	regulate commerce among states
coin money	support an army
deal with the Indians	settle disputes among the states
run the post office	force citizens to pay debts
make agreements with foreign nations	force state governments to honor agreements with foreign governments

Under the Articles of Confederation, there was no executive branch and no national judicial system. Each state had one vote in the Congress established under the Articles, and nine of the thirteen states had to agree before any measure could be passed. The main achievements of the government under this constitution were negotiating a favorable peace settlement to end the Revolutionary War, and organizing the orderly settlement of the Northwest Territory between the Ohio River and the Great Lakes.

Appendix 2 HANDOUT #2

Role Play Outline

SCENE ONE: Farmer's house, November, 1786

Tax collector knocks on Mr. Farmer's door. **Farmer and wife** explain that they are unable to pay taxes because the farm was not profitable during the war years while the farmer was away serving his country in the Revolutionary War against Britain. Besides, the family is in debt to the bank for equipment and supplies purchased on credit before the revolution. Tax collector advises farmer to sell something to raise enough money to pay taxes, or he faces a foreclosure. After the tax collector leaves, Farmer and wife, at kitchen table, struggle to think of a way to pay their debts and taxes. They talk about the fact that they have always been honorable people, and would pay their bills if they could think of a way. But the only things of value that they have are their house, farm, and the equipment they still owe money on. If they sold or lost these items, how would they support themselves? Besides, most of their neighbors are in the same situation. It's just not fair that hard working, honorable people who have fought for their country and won independence would face such a sad situation. The farmer was not even paid for his years of service in the Revolutionary Army, because General Washington could not raise enough money to do so. **Children** whine from fear and hunger.

SCENE TWO: Farmer's house, two weeks later.

Tax collector returns to farmer's house, this time with the **sheriff**. Tax collector gives the farmer another chance to pay taxes, but when he cannot, Sheriff Andy escorts him into town. **Children** whine from fear and hunger. **Wife** is desperate and hopeless; tries to be strong.

SCENE THREE: Inside the courthouse

Judge presides over foreclosure hearing for farmer. **Mr. Farmer** explains why he is unable to pay debts and taxes, lists the items he has sold trying to raise the money. **Mr. Banker** testifies that the depositors in his bank, also hard working people in the community, expect their money to be safe. When people like the Farmer family do not pay their debts, the bank cannot continue to operate. Mr. Banker, a long time friend of the Farmers and people like them, is sympathetic, but the rights of property owners and lenders must take precedence over debtors who cannot pay. Before he renders judgment, His (or Her) Honor delivers a brief speech describing his disapproval of laws recently written by some state legislatures. These laws cancel the debts of people like Mr. Farmer and provide for the issuance of inflated paper money. While these laws are popular with the majority in those states, because they benefit anyone who owes money, they spell disaster for the overall economic system and make it impossible for the businessman to stay afloat. His Honor, like Mr. Banker, is sympathetic to the Farmer family. After all, their fathers helped build each others' barns. Nevertheless,

SCENE THREE, continued

the justice system must not be swayed by sympathy, and must send the message that debts must be paid. Therefore, **His Honor** orders the Farmers' place sold for payment of back taxes and other debts. And to make the message to the community very clear, Mr. Farmer is ordered to jail. **Children** whine from hunger and fear. **Mrs. Farmer**, hopeless, tries to be strong, and vows to keep the family together somehow until her husband is released and returns to support them. **Sheriff Andy** escorts Mr. Farmer to jail.

SCENE FOUR: Outside the courthouse

Angry farmers who are also Revolutionary veterans, brave men who have served their country faithfully, hear of the judge's decision, and angrily storm the front door of the courthouse. They know that it is only a matter of time until their inability to pay their debts may lead to the same result. **His Honor**, hearing the riot, barely escapes out the back door and hides, afraid for his life. A group of the farmers remains at the courthouse, preventing the judge from returning.

SCENE FIVE: Beginning near the courthouse, ending at the arsenal

Daniel Shays meets with some of the farmers and the group decides that they need to lay seige to Boston and force the Massachusetts legislature to write laws similar to those described by the judge. Then the money-grubbing leeches will no longer be able to persecute hardworking veterans and take away the fathers of little children! But before they can take control of the statehouse, they must have weapons. Therefore, brandishing pitchforks and shovels, they threaten to take over the arsenal at Springfield. The **guards** at the arsenal somehow hold out against the poorly armed mob, and notify the **Massachusetts governor** of the trouble.

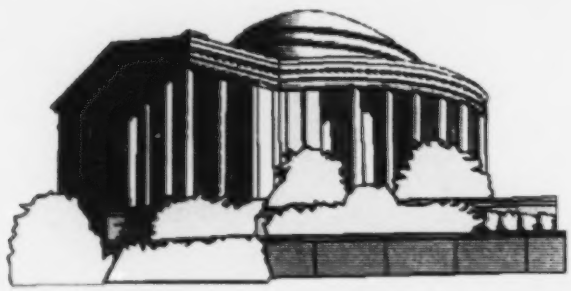
SCENE SIX: The Governor's office

The **governor** responds just as he should to restore order, and asks the Continental Congress to send in troops. However, the Continental Congress can raise neither troops nor money. He then turns to the Massachusetts **militia**. He finds, however, that the Massachusetts militia is not functioning; most of them are debt-ridden farmer/veterans. In desperation, he collects private funds and rounds up a private army/militia which finally marches on Springfield in February, 1787. The soldiers fire a few shots and three people are killed. The soldiers disperse the rebels, who flee to nearby states and are later pardoned.

Appendix 3 **Transparency Master**

The Preamble of The Constitution of the United States of America

We the people of the United States, in order to
form a more perfect Union,
establish justice,
insure domestic tranquility,
provide for the common defense,
promote the general welfare, and
secure the blessings of liberty to ourselves and our posterity,
do ordain and establish this Constitution for the United States of America.



Appendix 4 **Transparency Master**

Comments of Thomas Jefferson concerning Shays' Rebellion

"I hold it, that a little rebellion, now and then, is a good thing, and as necessary in the political world as storms are in the physical... It is a medicine necessary for the sound health of government."

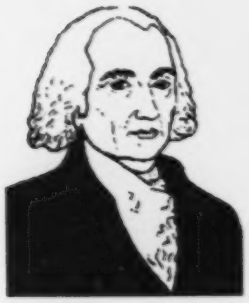
Thomas Jefferson, in a letter to James Madison, Jan., 1787

"The tree of liberty must be refreshed from time to time, with the blood of patriots and tyrants. It is its natural manure."

Thomas Jefferson, in a letter to Wm. Stephens Smith, Nov., 1787

How might Jefferson's opinion have been affected by the fact that he was living in Paris at the time of Shays' Rebellion?

Appendix 5 **Transparency Master**



James Madison, ***The Federalist Papers***

"If men were angels, no government would be necessary. If angels were to govern men, neither external nor internal controls on government would be necessary. In framing a government which is to be administered by men over men, the great difficulty lies in this: you must first enable the government to control the governed; and in the next place oblige it to control itself."

Jurassic Park:
A Mock Trial 65 Million Years in the Making

David Goldsmith
Nashua High School
Nashua, New Hampshire

ABSTRACT
This mock trial case is based on the novel by Michael Crichton. Businessman John Hammond's goal is to create the ultimate theme park for fun and profit, featuring live dinosaur attractions. But on the first tour, the security system fails and Ed Regis is killed by a Tyrannosaurus Rex. John Hammond is charged with negligent homicide for creating the dinosaurs and the conditions which led to the death of Ed Regis. Full witness statements are provided, so copies of the book are not necessary.

GOALS/OBJECTIVES:
- Students will understand how our justice system works in a criminal case.
- Students will demonstrate critical thinking skills by preparing opening or closing statements or witness examination questions and answers to support their side's position in the case.
- Students will work cooperatively with classmates to formulate and present a unified theory of the case.
- Students will be able to discuss the ethical implications of biotechnology on our society.

SUBJECT/GRADE LEVEL
This lesson is designed for grades 9-12 and is suitable for classes in Law, Ethics, Future Studies, English, and Biology.

TIME REQUIRED
Approximately 8-10 fifty-minute class periods

MATERIALS NEEDED
1. Copies of the Description of the Case, Stipulated Facts, New Hampshire Statutes (your own state statutes may be substituted), and all witness statements for each student
2. Copies of the novel *Jurassic Park* by Michael Crichton (optional)
3. Copies of the Suggested Page References handout for each student, if copies of the novel are available

PROCEDURE
1. The teacher should decide on the dates on which the actual trial will be held. It is recommended that a weekend be planned to fall during the preparation phase of the project rather than in the middle of the trial to promote continuity and allow students maximum preparation time.

2. The teacher must also decide how to provide a jury for the trial. Selecting students from a study hall or from another class with an interest in the subject matter are the preferred methods. If you wish to chose jurors from the class doing the trial, assign them meaningful outside work during the preparation stage of the trial. Also, requiring the jurors to submit an essay justifying their decision after the case is concluded may help to keep the jurors as focused and serious as the other trial participants.

Day 1

1. The teacher should introduce the lesson with a general discussion of recent developments in biotechnology. The cloning of human embryos, gene therapies, and the release of bioengineered organisms into the environment are all good starting points. David K. Smith's lesson (see bibliography), available through the National Repository, can be very helpful background here.

2. After initial discussion of what is being done now, the teacher should lead the students in a discussion of what they expect might be possible in these areas during their lifetime, and what potential problems they could foresee resulting from this technology.

3. The teacher should explain that the class will be exploring some of these ethical issues through a mock trial based on the novel *Jurassic Park*. Students should be cautioned that though the basic premise is similar to that of the movie, there are significant differences of which they must be aware. Also, students should be informed which characters from the novel have been brought back to life for mock trial purposes.

4. The teacher should then hand out the case and go over the "Stipulated Facts" with the students. After clarifying any confusion, the teacher should then assign the parts of witnesses and lawyers to each student. Depending on the size of the class, up to ten lawyers may be assigned to each side of the case. The teacher may also want to assign specific responsibilities to each lawyer to avoid confusion.(i.e., cross examination of John Hammond, Defense opening statement, etc.) In some classes, it may be suitable to assign a student to be the judge, though it is recommended that a volunteer lawyer or law student be contacted for this purpose.

5. The teacher should also review for students or explain the steps and order of a criminal trial. *The Street Law Mock Trial Manual* or a resource person would be helpful here.

6. Each student should read the case materials in their entirety for homework.

Days 2-4

These days are to be used primarily for student independent and group preparation, though approximately 15 minutes of time at the beginning of each period may be used for general instruction on specific trial topics. If a lawyer has been invited to the class as an outside resource person, all of the instructional topics may be addressed on the day the lawyer is present.

Day 2

1. The teacher should stress to the class the importance of each team's having a unified "theory" of the case. This theory should stem from the elements of the charge and should include what the team intends to prove/disprove and what each witness must contribute to make this effort successful.

2. The remainder of the class period should be used by the sides of the case to formulate their case theory. The teacher may wish to assist in this effort and should check each side's theory before the end of the period or at the start of the next class.

Day 3

1. The teacher should explain to students the basic processes of direct and cross examination. It is important to stress that the questions must be highly specific (i.e., "What happened when your car stopped during the tour?" "What happened after Mr. Regis left the car?" not "What happened on the tour?") Lawyers on direct examination should be instructed to be sure that the witness is the person telling the story, not the lawyer.

2. In explaining/modelling cross examination techniques, the teacher should stress the importance of using leading questions and not allowing the witness another opportunity to simply restate his/her story. (i.e., "Mr. Hammond, isn't it true that you completely disregarded Henry Wu's advice to develop a more docile version of the dinosaurs?")

3. The remainder of the class should be used for students to develop their witness examination questions. Questions should be completed for homework.

4. During the work time, the teacher should also meet with the students working on opening and closing statements and discuss the basic purposes of these portions of the trial. Again, *The Street Law Mock Trial Manual* or resource person would be helpful here.

Day 4

1. The teacher should instruct the class and briefly give examples of objections which will be allowed for mock trial purposes. Relevance, hearsay, badgering, narration, leading, opinions, and a lack of firsthand knowledge are probably sufficient for most purposes. Again, *The Street Law Mock Trial Manual* or a resource person would be helpful.

2. The remainder of the class time should be used for individual and group trial preparation, with the teacher available to assist anyone needing help on any aspect of the trial preparation. Students should be strongly encouraged to actually practice their parts out loud. The teacher may wish to help some witnesses to prepare by cross examining the them.

Days 5-7

1. Conduct the trial. The teacher may wish to limit the time for each witness to no more than seven minutes per side and opening and closing statements to no more than five minutes each. Also, placing a limit on redirect and recross and on recalling witnesses may be necessary to keep to a manageable schedule.

2. Providing some of the trappings of a court setting (i.e., gavel, judge's robe, courtroom furniture arrangement, etc.) are recommended to heighten student interest and involvement.

Day 8

Debrief the trial exercise (see suggested topics/questions for debriefing section).

EVALUATION

Students may be effectively evaluated through any of the following means during this mock trial project:

1. Evaluation of the student's written questions or statements.
2. Assessment of the student's actual performance during the trial.
3. Analysis of the student's effectiveness at cooperation and communication skills during both the preparation and trial stages of the project.
4. Grading the essays of student jurors.

DEBRIEFING/CLOSURE

The following questions might serve as an effective basis for debriefing after this mock trial is completed:

1. What witnesses/lawyers were most effective during the trial? What made them effective?
2. Is there anything which you would do differently if you were to try this case over again?
3. How did you feel about the job the jury did in deciding this case? Why?
4. Do you feel that our legal system provided John Hammond with a fair trial? Why or why not?
5. Do you feel that the type of biotechnology used in Jurassic Park is feasible during our lifetimes?
6. What if any limitations should our government place on genetic engineering, biotechnology research, release of genetically-altered organisms into the environment, etc.?
7. If you had the capacity to determine the gender, intelligence, eye color, and general state of health of your future offspring, would you specify any or all of these traits? Why or why not?
8. What are the implications for society of the choices you and your classmates made in response to question #7?
9. Is there any danger of our biotechnology leading to attempts to create a "master race"?
10. John Hammond feels that medical research could never be profitable enough to support large-scale biotechnology research, and that only entertainment could generate enough money to support such an undertaking. Do you feel this observation is true? If so, what does this say about the values of our society?

TIPS FOR THE TEACHER

1. Insuring that the students understand the mental states specified in the statutes is very important. Stress that negligence is the minimal required mental state for conduct to be considered criminal, but that reckless, knowing, or purposeful conduct is also more than sufficient to prove negligent homicide.

2. For the prosecution, stress the importance of keeping the focus squarely directed on John Hammond. Students sometimes forget that only his conduct is at issue here. What he actually did, or failed to do which a reasonable person should have done, is of vital importance in this case.

3. Relevance will be a very key objection in this trial. Much of what makes the story interesting as a novel or movie is not relevant to this criminal case. Remember, if something is not directly connected to the death of Ed Regis, its relevance is questionable. Most of what occurs after his death is likely to be irrelevant.

4. Characters may always elaborate on and embellish their written witness statements to add detail or strengthen their case. This possibility is probably most significant with the character of the Costa Rican Attorney General. Since schools will generally not have access to Costa Rican law, the teacher may have to exercise some discretion as to what embellished testimony is permissible. I allow the trial to proceed on the premise that any biotechnology process which would not be legal in the U.S. would not be legal in Costa Rica. This allows the Costa Rican Attorney General to be a very strong witness--with adequate research.

BIBLIOGRAPHY

- Crichton, Michael. *Jurassic Park*, Ballantine Books, 1990.
- Dugan, David. "The Real Jurassic Park." *Nova*. PBS. WGBH, Boston. November 1993.
- McGuire, Patricia. Esq., Ed. *Street Law Mock Trial Manual*. Washington, D.C.: National Institute for Citizen Education in the Law, 1984.
- Smith, David K. *"Ethical Issues in Biotechnology."* Available from Warren E. Burger National Repository for Educational Materials on Citizenship and the Constitution, Center for Research and Development in Law-Related Education, 2714 Henning Drive, Winston-Salem, NC 27106

Handout A
Description of the Case

Defendant: John Hammond
Charge: Negligent homicide for the death of Ed Regis

Witnesses for the Prosecution:

Dr. Alan Grant
Costa Rican attorney general
Ian Malcolm
Robert Muldoon

Witnesses for the Defense:

John Hammond
Dr. Henry Wu
John Arnold
Dr. William Harding

Note: Each side may call four witnesses. The witnesses listed above are merely recommended witnesses. Either side may substitute one or more witnesses from the following list:

Tim Murphy
Alexis Murphy
Dr. Ellie Sattler
Donald Gennaro

If the trial is to be done in or in conjunction with a science class, prominent geneticists or ethicists may be called as well.

Procedural notes:
1) A few obvious liberties have been taken with the story line of *Jurassic Park* to make this case a plausible Mock Trial. First of all, all major characters who died in the story, with the exception of Ed Regis and Dennis Nedry have been brought back to life to enable them to serve as witnesses for the defendant. All witnesses, however, can only possess the knowledge they had at the time of their deaths in the story.

2) Discrepancies most certainly exist between the movie version of *Jurassic Park* and the novel. For purposes of this case, all discrepancies will be resolved in favor of the facts as portrayed in the novel. This solution allows for deeper analysis and also easier fact checking for the teacher or judge.

3) Witnesses may be cross-examined using any statements they have made, as well as any thoughts conclusively attributed to them by Michael Crichton.

4) The statute utilized for negligent homicide in this case will be the New Hampshire statute. Teachers utilizing this case in other locales may wish to substitute their own state statute.

Handout B

New Hampshire Statutes (excerpted and simplified)

RSA 630:3 Negligent Homicide

A person is guilty of a class B felony when he causes the death of another person:

a) Negligently; or

b) In consequence of being under the influence of a controlled substance while operating a motor vehicle

RSA 626:2 General Requirements of Culpability

The following are culpable mental states as they apply to crimes:

a) "Purposely." A person acts purposely when his conscious object is to cause an element of the crime.

b) "Knowingly." A person acts knowingly when he is aware that his conduct is an element of the crime

c) "Recklessly." A person acts recklessly when he is aware of and consciously disregards a substantial and unjustifiable risk of an element of the crime arising from his conduct. The risk must be of such a degree that its disregard constitutes a gross deviation from the conduct that a law-abiding person would observe in the situation.

d) "Negligently." A person acts negligently when he fails to become aware of a substantial and unjustifiable risk that an element of the crime will result from his conduct. The risk must be such a nature and degree that his failure to become aware of it constitutes a gross deviation from the conduct that a reasonable person would observe in the situation.

When the law provides that negligence is sufficient to establish an element of an offense, such element is also established if the person acts purposely, knowingly, or recklessly.

Knowledge as to whether conduct constitutes an offense is not a required element of any offense, unless the law so provides.

Handout C
Stipulated Facts

John Hammond had a vision: to create the ultimate theme park with live dinosaurs for people to see and enjoy. But for this park to be commercially successful, he felt everything had to be accomplished in secret until the park was ready to open. With this in mind he purchased an island off the coast of Costa Rica and hired a team to begin work on cloning dinosaurs from preserved, prehistoric DNA.

Dr. Henry Wu accomplished the task of creating the dinosaurs. John Arnold was hired to oversee the engineering and running of the park. Robert Muldoon was hired to handle the maintenance and safety of the dinosaurs. Dr. William Harding was hired as veterinarian. Ed Regis was in charge of publicity. Dennis Nedry created the computer system which maintained all park systems. A year before the projected opening, 238 dinosaurs had been created and released into the park, including two Tyrannosaurus Rex.

But then Hammond started to run into trouble. Several workmen had been killed on the island, though this was kept secret from the public. The U.S. government had begun to investigate Hammond, and his investors were starting to get nervous that perhaps his park wasn't safe. There was even evidence that some dinosaurs had escaped to the mainland. To try to calm fears, Hammond organized a weekend tour of the park by independent experts to evaluate its safety. Dinosaur expert Alan Grant, mathematician Ian Malcolm, botanist Ellie Sattler, and attorney Donald Gennaro were joined on the tour by Hammond's own grandchildren, Tim and Alexis Murphy.

But on the tour, things started to unravel. Unknown to anyone, Dennis Nedry had decided to steal and sell dinosaur embryos to try to make several million dollars. Using his access to the computer system, he had shut off all electricity and communications equipment in the park. The electric cars on the tour stopped, the electric fences containing the dinosaurs failed and the Tyrannosaurus attacked the group. Ed Regis, who had previously witnessed dinosaur attacks on the island, ran from the car. He was ultimately attacked by a Tyrannosaurus and dismembered and killed. Other members of the group and the cars were attacked as well, including Ian Malcolm, who barely survived. A poisonous dilophosaur killed Dennis Nedry as he attempted to transport the embryos.

Eventually members of the group made their way back to the park control room, survived many other dinosaur attacks by velociraptors, and contacted the Costa Rican authorities. The Costa Rican military rescued the survivors and then bombed the island in an attempt to destroy the dinosaurs.

John Hammond was then arrested and charged with negligent homicide for the death of Ed Regis.

Handout D
Suggested Page References

The following lists of page numbers are merely suggestions for students. Reading the entire book would of course be most desirable. But for checking back, or in the interest of saving time, a brief list of some of the most important page references for trial purposes has been provided. All references listed here refer to the Ballantine books paperback edition.

Background for all: Death of Ed Regis
pp. 183-185, 215-217

Witness: Dr. Alan Grant
Important pages/sections:
pp. 31-33, 47-48, 115-118, 147-149, 159-160, 168, 282, 372, 375

Witness: Dr. Ian Malcolm
Important pages/sections:
pp. 71-76, 90-91, 132-133, 147-149, 158-166, 226-227, 242-243, 245-246, 283-285, 305-307, 312-313, 350-351

Witness: Robert Muldoon
Important pages/sections:
pp. 139, 145-147, 176-177, 221-227, 250, 271, 288

Witness: John Hammond
Important pages/sections:
pp. 59-62, 120-137, 139, 147-149, 158-166, 198-203, 250, 305, 381, 391

Witness: Dr. Henry Wu
Important pages/sections:
pp. 108-109, 113, 120-125, 149-150, 198-203, 209-210, 334

Witness: Dr. William Harding
Important pages/sections:
pp. 242-243, 246-247
Note: Because of sketchy details in the book, this character will need to embellish the stated facts in a consistent manner.

Witness: Costa Rican Attorney General
Important pages/sections:
pp. 369, 395-399
Note: Because of the composite nature of this character, it is important that this witness be familiar with the entire book. To aid with review, it is suggested that this character be familiar with the page citations for all other characters.

Witness: John Arnold
Important pages/sections:
pp. 126-133, 138-140, 239-241, 245-248, 288

WITNESS STATEMENT FOR MARIA RAMIREZ, COSTA RICAN ATTORNEY GENERAL

My name is Maria Ramirez. I have been Attorney General for the country of Costa Rica for three years. Because of the tremendous importance of this case, I personally investigated everything once our government became involved.

John Hammond set out to consciously circumvent our government and the government of the United States. He never told us of his plans to create and release genetically engineered animals into the environment. These dinosaurs which he created were wild, vicious, and dangerous. Because they are prehistoric animals, neither Hammond nor anyone else had any idea how to control them. We have also discovered that at least one species of dinosaur, the Procompsognathus, escaped Isla Nublar and migrated to our mainland. Costa Rica will be trying to correct this problem for years.

Hammond seemed only to be concerned with profit. He didn't even hire a doctor to treat people on the island, even after one workman was killed by one of these dinosaurs. The death was covered up so we didn't find out about it until recently. Hammond kept his staff so small that only one person, Dennis Nedry, seemed to fully understand the computer system. Creating a system that complex with an insufficient number of people trained to handle it was grossly irresponsible.

It was also very difficult to gain access to Isla Nublar. Flights and ships were very restricted because of the climatic conditions. As a result, there was almost no way to deal with an emergency.

I know I have been criticized in the Costa Rican press for not knowing about Hammond's activities before tragedy struck. I acknowledge that as the highest law enforcement official in the country, this ultimately, was my responsibility. It also would have helped our investigation to be able to have visited Jurassic Park before it needed to be obliterated by bombing. But Hammond's secrecy made all this impossible. He must be made to pay for his crimes.

The Warren E. Burger National Repository for Educational Materials on Citizenship and the Constitution

WITNESS STATEMENT FOR DR. ALAN GRANT

I am a paleontologist by training with an expertise in dinosaurs. I am actively digging in a very productive site in Montana. I have published numerous books about dinosaurs and been called as an expert witness before Congress on prehistoric conditions.

I have been in contact with John Hammond for a number of years. I knew him as a dinosaur enthusiast and a major contributor to my digs--about $30,000 a year for the last five years. I did some consulting work for him in 1984 concerning eating habits of young dinosaurs, but never knew why he was interested.

I got a call from John Hammond just the day before he brought us down to Isla Nublar. I didn't really want to go, but Hammond offered enough money to finance our digging for two years, so it's hard to refuse such a major contributor's request for one weekend of my time.

By the time we reached the island, it was clear what Hammond wanted. He needed "experts" to certify that his dinosaur preserve was safe for tourists. I was fascinated to see the dinosaurs! The potential scientific research value was unbelievable! But obviously, things were far from safe.

We were brought on the tour in electric cars to see the dinosaurs close up -- through electric fences. We were never given any warnings, precautions, or recommended emergency procedures before we set out. And Hammond even sent his grandchildren on the tour! Then the power failed and we were face to face with a huge Tyrannosaurus Rex attacking us. Ed Regis took off. Who could blame him? The T. Rex was as big as a building, could run about 30 mph, had vicious teeth, and immensely powerful jaws! This animal is the most dangerous carnivore that ever lived with no natural enemies. And we were trapped out there, in the open, with no weapons thanks to John Hammond's arrogant lack of concern for the dangers. He hadn't even seemed concerned the day before when I told him there was some evidence of dinosaurs escaping to the mainland.

In this attack our party was scattered, our cars destroyed, and everyone was injured. Ian Malcolm was mauled and almost killed. Ed Regis was attacked by the juvenile T. Rex. Seeing that dinosaur chewing his ragged flesh was the most disgusting sight I have ever seen.

Even then, the danger was far from over. I had to lead Hammond's grandchildren to safety. But things just kept getting more and more perilous with vicious and sometimes even poisonous dinosaurs on the loose. The velociraptors were even more brutal than the tyrannosaurs. We were lucky to survive at all.

The Warren E. Burger National Repository for Educational Materials on Citizenship and the Constitution

WITNESS STATEMENT FOR DR. IAN MALCOLM

I am a mathematician with expertise in probability. My more precise specialty is known as chaos theory, which concentrates on establishing probabilities for events as they actually happen in the real world. John Hammond hired me as a consultant before his dinosaur preserve was ever started to study its feasibility. I told him to abandon the project, that such a complex living system was certain to behave unpredictably, with disastrous results.

The central folly is that living systems cannot be controlled in the way that would be necessary to control these dinosaurs. Animals are wild. Their highest instincts are to survive, to reproduce, and to escape artificial barriers. There was no possible way to keep them on the island or to keep them from breeding. No other factor could be totally controlled either. Scientists arrogantly create systems and even alter genetic populations just because they can. They never stop to think of the implications or the consequences of their actions. The whole system of Jurassic Park was inherently unstable from the start. When I told Hammond years ago of these dangers, he just ignored my report.

Hammond hired me again to come to the island to see if it was safe. I knew even before we got there that it was a disaster waiting to happen. But I took his tour just to see exactly where the problems were. Then the power failed, and the tyrannosaur attacked us all. I tried to run, but it was too big and too fast! It picked me up in its jaws, bit into my abdomen, and threw me down, breaking my leg. I don't really remember anything else that happened after that.

WITNESS STATEMENT FOR ROBERT MULDOON

I have spent my entire career guiding big game hunters, managing wildlife, and designing zoos. I am currently the game warden at Jurassic Park. Though I find the work interesting and challenging, and the pay is excellent, I have found myself frequently at odds with the park management, especially John Hammond.

The problem is, Hammond doesn't really know about wild animals and refused to take the time to learn. He has this romantic view of dinosaurs as gentle creatures and was always most concerned with protecting his investment. Time and again, I tried to convince him of the dangers involved in this park, but he never listened to me.

For instance, the velociraptors are the most vicious creatures I've ever seen. I told Hammond they needed to be destroyed because of their amazing speed, leaping ability, love of killing, and ability to escape cages. One escaped and killed two construction workers. But Hammond didn't care.

I told Hammond we needed major weaponry, including missile launchers to try to bring down 40-ton dinosaurs in an emergency. How else could we control a Tyrannosaurus? Hammond refused to order any powerful weapons, and only agreed to order one launcher when I threatened to quit and tell the press all about the island. Maybe if I had gone to the press, Ed Regis would be alive today.

I got the job of going out after the people when the power failed. At first, I just waited in the control room, thinking the engineers could get the power back on. After all, I believed the monitoring and backup systems in the park were adequate. And then I couldn't go until we got a jeep back in to use. I guess I shouldn't have left the keys in the ignition. Hammond only ordered two gas-powered vehicles for emergencies! When I headed into the park, I found Ed Regis' dismembered leg. It was clear from the tearing of the muscles that the Tyrannosaurus Rex had killed him.

WITNESS STATEMENT FOR JOHN HAMMOND

I am a businessman and a lover of dinosaurs. My dream in creating Jurassic Park was to put together the ultimate theme park -- with living attractions! I certainly expected this park to be immensely profitable, but equally important, I wanted the children of the world, who so love dinosaurs, to be able to see them up close and alive.

In this park we utilized the latest in genetic technology and so we advanced scientific knowledge. Many naive people think genetic research should be used for medicine. But there could never be enough money for the research that way. Only pure entertainment generates enough money to sustain such expensive research.

I don't know what else could possibly have been done to make Jurassic Park safe. We only acted the way any business would have acted. I created Jurassic Park on an island to keep the dinosaurs from spreading to the mainland. The dinosaurs were secured behind huge electric fences with enormous concrete moats separating regions as well. Viewers and motion sensors were all over the park to keep things well monitored. The cars were all equipped with two-way radios. We counted the dinosaurs every 15 minutes, by computer, to make sure there were no disappearances or problems. There were redundant security systems for everything, and all of this was controlled by computer.

I hired the best people in the world and paid them extremely well so the park would be a success. Sure, I needed to keep our purposes on the island, the cloning of 238 dinosaurs, and a few accidental deaths of workers, secret from the rest of the world. If scientists, tourists, and other companies had overwhelmed the island before our systems were ready, that would have been really chaotic and dangerous. We kept our staff to a minimum as well, to prevent undue publicity from leaking out.

People were always doubting the potential success of Jurassic Park, but it's only because they lacked vision. Muldoon wanted to destroy some of the dinosaurs, but he doesn't understand what it cost to create each one. Even Henry Wu wanted to re-engineer the dinosaurs to make them slower and more tame. But I wanted people to see real dinosaurs!

In the face of doubters, I brought a team of experts to tour Jurassic Park to verify that it was safe. The whole purpose of the tour was to improve safety. I completely believed in the safety of Jurassic Park. After all, I even brought my own grandchildren on the tour. I wouldn't have taken that risk if I had foreseen any problems.

The death of Ed Regis was certainly a tragedy. But it was all the fault of the crimes of Dennis Nedry shutting down the power system and security systems. Blaming me for his death is preposterous. Besides, Ed Regis took this job voluntarily, knowing there were certain risks and inconveniences involved. That's why he was paid so well.

WITNESS STATEMENT FOR DR. WILLIAM HARDING

I am the veterinarian for Jurassic Park. My main responsibility is to insure the health and safety of the dinosaurs. I suppose I am as much of an expert on the behavior of these animals as anyone in the world. Some day, I had hopes of writing the first veterinary textbook on dinosaur medicine.

Keeping the dinosaurs healthy was a major professional challenge. No one really had any idea of what they would need to eat, what diseases they might suffer from, and how modern environmental conditions would affect them. I took the job because of the professional challenge, and the generous salary, just as I assume Ed Regis did. I knew these were very dangerous animals -- we all did -- but I felt the undertaking was worth the risk.

I regularly entered the dinosaur habitats behind the fences and almost always felt safe. It was important to be cautious, especially when we were sedating the dinosaurs for medical work, but we got pretty good at this part of the job. It was unnerving when we discovered some dinosaurs were poisonous and couldn't ever locate their venom sacs, but after that realization, we were more careful.

Since there was no medical doctor on the island yet, I also had to intervene in some medical emergencies. At the time of the tour, I felt the situation was safe, for the dinosaurs and the people, or I would have advised Mr. Hammond against it. But the security was all based on electricity. Without the fences working properly, the predatory and carnivorous characteristics of the Tyrannosaurus and the velociraptors created unforeseen dangers. These unforeseen dangers are what led to Ed Regis' death. You can't blame the dinosaurs for acting on their natural instincts. And you shouldn't blame John Hammond for events that no one could foresee.

WITNESS STATEMENT FOR DR. HENRY WU

I am the geneticist who was responsible for cloning the dinosaurs for Jurassic Park. John Hammond hired me right out of graduate school for this project. He paid me well and made any technology in existence available to me. I am quite proud of the achievement of creating these dinosaurs.

The entire idea for creating the dinosaurs came from John Hammond. Because we had to fill in many gaps in the dinosaur DNA available, we cannot be sure how closely the dinosaurs we created matched the originals. We did, however, install many safeguards to try to prevent problems. All of the dinosaurs were made female so breeding was impossible. We made all the animals dependent on enormous quantities of the amino acid lysine so they could not survive in the wild. We also maintained a supply of incredibly lethal toxins in case we had to quickly destroy any of the animals.

I was shocked to learn that the dinosaurs were actually breeding and some had escaped the island. But since I didn't even take these concerns seriously, I don't know how John Hammond could have been expected to do otherwise. I had read Ian Malcolm's original report on the feasibility of Jurassic Park, but I dismissed it as the ravings of someone who was simply anti-science.

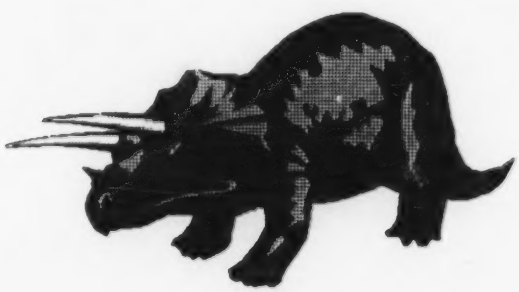
I did warn Mr. Hammond that I felt we should introduce a new version of the dinosaurs which would be more docile and slower moving so as to reduce the risk to visitors. After all, by nature these dinosaurs are aggressive and wild. But Hammond never agreed. He just couldn't seem to accept that these dinosaurs were not exactly real, but rather our own creations. Besides, once the dinosaurs had been created, John Hammond tended to listen to me less and less. If Hammond had taken my advice and we had created more tame dinosaurs, maybe Ed Regis would still be alive today.

WITNESS STATEMENT FOR JOHN ARNOLD

I am the head of engineering for Jurassic Park. I have had extensive experience running theme parks throughout my career. But Jurassic Park is definitely the toughest situation in which I've worked. Trying to maintain animals which no one understands, keep the rides operational, maintain the security enclosures, and everything else is monumentally complex. We've had lots of problems, but up until the tour, we were always able to solve them. I was nervous before the tour, but I didn't think any of the problems would be dangerous.

To maintain the dinosaurs safely, we enclosed them in electrified fences. Different regions were separated by large concrete moats. Our video sensors counted the dinosaurs every 15 minutes and we could see almost anywhere in the park. We even built a reinforced steel cage around our visitor lodge when we saw how dangerous some of the animals could be.

The problem that developed on the tour was that Nedry shut off all our security and tied up the computer system and the phone lines so we couldn't figure out how to fix things for hours. It's an incredibly complex system, and Nedry is really the only one who knew the programming involved. Once the security was down, the fences were out and the animals could roam free. That was incredibly dangerous, and Ed Regis' death was the tragic result. But it never would have happened if it wasn't for Dennis Nedry's criminal actions.



Sample Differentiating Characteristics of the Gifted and Talented Learner with Suggested Classroom Strategies in the Field of Civics and Law-Related Education

THE COGNITIVE DOMAIN

Differentiating Characteristics	*Classroom Strategies*	*Civics Education Matches*
Unusual retentiveness	Information organized at levels of difficulty; variety of methods for learning at each level	Case studies of landmark Supreme Court decisions
Advanced comprehension	Group discussion on mutually-selected topics; advanced material	Variety of interesting & timely topics
Unusual curiosity and variety of interest	Mentor programs; simulations	Historical recreations
High level of language development	Edit and publish a book, journal, play, or TV script	Poetry expressions, newspapers, dramas, etc.
High level of verbal ability	Projects involving exchanges of opinions in a variety of ways.	Current events discussions, open and structured
High level of visual and spacial ability	Incorporate visual mode in products	Interactive learning; Political cartooning
Unusual capacity for processing information	Hypothesizing and hypothesis-testing	Case method approach
Accelerated pace of thought processes	Brainstorming; opportunities for acceleration of content; self-paced instructional materials	Brainwriting; Depth of research materials on legal and social issues
Flexible thought processes	Teacher acceptance of unusual products; open-ended assignments, etc.	Teacher flexibility; Ongoing projects
Comprehensive synthesis	Continuous assessment of progress; individualized deadlines	Independent research projects
Early ability to delay closure	Presentation of contradictory events for solution; reflection	Debate; Current events
Heightened capacity for seeing unusual and diverse relationships	Unstructured periods of time for exploring; acceptance of unusual approaches, etc.	Resource persons; mediation programs
Ability to generate original ideas and solutions	Planning and implementing solutions to community problems	Environmental law; local government lessons
Thinking in alternatives and abstract terms, sensing consequences, visualizing solutions	Activities promoting the development of inquiry skills; opportunities to analyze their own communication and decision-making skills	Mock trials and moot court simulations; opinion surveys
Early ability to use and form conceptual frameworks	Activities that emphasize the social cost of various solutions	Legislative process studies
An evaluative approach toward self and others	Models of decision-making and their use with real problems	Case method approach
Persistent goal-directed behavior; intensity	Value-clarification exercises; self-chosen projects; blocks of time	Open discussion of sociological problems

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THE AFFECTIVE DOMAIN

Differentiating Characteristics	*Classroom Strategies*	*Civics Education Matches*
Large accumulation of information about emotions that have not been brought to awareness	Group discussions based on feelings; Awareness exercises; Physical environment; Social-emotional environment	Role-play exercises with current events
Idealism and a sense of justice which appear at an early age	Activities on valuing	Contemporary and historical perspectives on social issues
Earlier development of an inner locus of control and satisfaction	Small group discussion; self-chosen groups	Variety of opportunities for small group activities and discussion
High expectations of self and others	Self-esteem activities	Developing citizen's sense of role in society
Unusual emotional depth and intensity	Opportunities for involvement with various community groups	Volunteer activities with community groups
Sensitivity to inconsistency between ideals and behavior	Classroom discussion on ethical questions faced by persons in selected careers	Comparisons of constitutions and laws of different countries and states
Strongly motivated by self-actualizing needs	Values clarification exercises and self-esteem activities	Role-play exercises
Advanced cognitive and affective capacity for conceptualizing and solving societal problems	Visualizing experts; small group field trips; debates; simulations; analysis of real problems; problem-solving models	Attorney interaction; field trips to historic places, courthouses, etc.; debates; simulations; current events discussions; decision-making exercises
Leadership	Creating a group government; Organizing and implementing programs	Class constitutions; Constitutional conventions
Solutions to social and environmental problems	Simulations; planning and implementing programs benefitting segments of the school community, etc.	Simulations; Socio-legal problem-solving
Involvement with the meta-needs of society, e.g., justice, beauty, and truth	Great Books program; visiting experts; future studies	Resource persons (attorneys, judges, police, etc.); Future projections re: topical legal issues
Global awareness	Planning and implementing programs related to world community	Pen pal and exchange programs; Foreign embassy correspondence & visits

Adapted from Barbara Clark's book, *Growing Up Gifted*, 4th edition, Macmillan Publishing Company, New York, 1992, pp. 242-245.

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Lawyer-Teacher Partnership Planning Forms

LAWYER-TEACHER PARTNERSHIP INFORMATION EXCHANGE

Complete and give this sheet to your partner.

Lawyer's Name:

Personal/Professional Background - In order for you to get to know each other better, we suggest the following topics for your first meeting.

- What attracted you to the legal profession?
- What have been your greatest challenges, satisfactions, and frustrations?
- What attracted you to the "partnership" concept?
- Have you worked with students and/or teachers before? If so, in what way?
- What is the main focus of your practice/profession?

Important Details - Please complete this section Friday night so that you can give the information to your partner on Saturday. You might want to verbally explain any special circumstances.

When is the best time to phone and/or meet?

- ☐ Before 9:00 a.m.
- ☐ 9:00 a.m. to noon
- ☐ Noon to 3:00 p.m.
- ☐ 3:00 to 6:00 p.m.
- ☐ After 6:00 p.m.
- ☐ Other:

What numbers should be used to reach you?

Phone: FAX:

How should urgent messages be delivered?

What address should be used for correspondence?

Where would it be preferable to meet, and what are the directions for getting there?

What other information would be useful to exchange?

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LAWYER-TEACHER PARTNERSHIP INFORMATION EXCHANGE

Complete and give this sheet to your partner.

Teacher's Name:

Personal/Professional Background - In order for you to get to know each other better, we suggest the following topics for your first meeting.

- What attracted you to the teaching profession?
- What have been your greatest challenges, satisfactions, and frustrations?
- What attracted you to the "partnership" concept?
- What are your goals for teaching about the law?
- What curriculum materials and methods do you use?
- What are the ages, backgrounds, interests, capabilities, and limitations of your students?

Important Details - Please complete this section Friday night so that you can give the information to your partner on Saturday. You might want to verbally explain any special circumstances.

When is the best time to phone and/or meet?

- ☐ Before 9:00 a.m.
- ☐ 9:00 a.m. to noon
- ☐ Noon to 3:00 p.m.
- ☐ 3:00 to 6:00 p.m.
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- ☐ Other:

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Phone: FAX:

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What address should be used for correspondence?

Where would it be preferable to meet, and what are the directions for getting there?

What other information would be useful to exchange?

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LAWYER-TEACHER PARTNERSHIP PLANNING SHEET

This form is designed to help you draft a strategy for implementing your partnership over the next academic year. The form is to be completed by both partners and should be turned in to CRADLE staff on Sunday morning.

Lawyer's Name: **Teacher's Name:**

The Nature of the Partnership

What topics would you like to focus on in this partnership?

- ☐ Contract law
- ☐ Real Estate/Probate law
- ☐ Criminal law
- ☐ Tort law
- ☐ Constitutional law (due process, equal protection, etc.)
- ☐ Environmental law
- ☐ Family law
- ☐ Juvenile law
- ☐ Consumer law
- ☐ Jurisdiction and trial procedure
- ☐ Role of lawyers in society
- ☐ Comparing systems of justice
- ☐ Dispute resolution/mediation/arbitration
- ☐ Substance abuse prevention
- ☐ Violence prevention
- ☐ Current events in the law
- ☐ Other:

Identify the activities in which the lawyer-partner can be helpful:

- ☐ Finding relevant laws and cases
- ☐ Reviewing new LRE materials
- ☐ Presenting/leading a class
- ☐ Presiding over moot court or mock trial
- ☐ Preparing students for moot court or mock trial
- ☐ Locating law specialists
- ☐ Mentoring students (one-on-one)
- ☐ Helping with a field trip
- ☐ Responding to legal questions by phone (hot line)
- ☐ Fundraising for law-related education
- ☐ Mobilizing community support for LRE
- ☐ Student "shadowing" at law office
- ☐ Overseeing peer mediation/student dispute resolution activities
- ☐ Training others (students, teachers, or attorneys) to teach LRE
- ☐ Other:

The Initial (or Next) Partnership Activity - Use the attached form to plan your first activity as "partners" following this institute.

Plans for the Rest of the Year

Give a brief timeline and description of some of the other partnership activities you expect to conduct during the school year.

How often do you anticipate working together?

- ☐ Weekly
- ☐ Monthly
- ☐ Other:
- ☐ Bi-Weekly
- ☐ Quarterly

How often do you plan to be in touch with one another by phone/FAX?

- ☐ Weekly
- ☐ Monthly
- ☐ Bi-Weekly
- ☐ Quarterly

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Can you set a regular day & time?

When and where will you meet next?

DATE: TIME: LOCATION:

PARTNERSHIP ACTIVITY PLANNING SHEET

Use this form to plan each of your activities as "partners."
Teachers and attorney-partners should devise this plan together.

General topic for this activity:

Date(s) & time(s):

What learning goals do you have in mind for your students in this activity?

-
-
-
-

What strategies will you use? (Ex., After the unit on the Bill of Rights, we will conduct a roleplay on contemporary situations involving censorship of a student newspaper -- based on the Supreme Court decision in Hazelwood v. Kuhlmeier.)

The teacher's role will be:

The attorney's role will be:

What materials will you need?

How will you assess the effectiveness of this activity?

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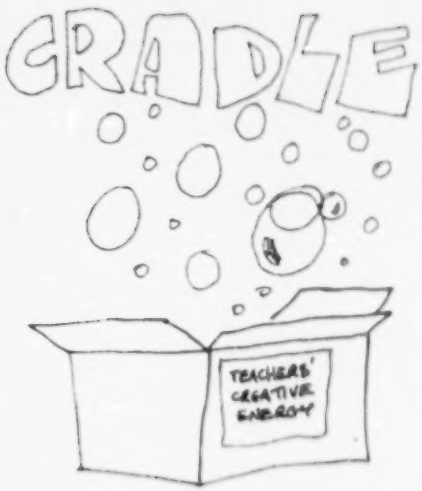

ABOUT CRADLE...

The Center for Research and Development in Law-Related Education (CRADLE) is a national, non-profit organization affiliated with Wake Forest University School of Law in Winston-Salem, North Carolina. CRADLE's activities are funded by the federal grants and contracts as well as private foundations, corporations, and individuals. CRADLE is governed by a national Board of Trustees composed of teachers and other education and business professionals who are committed to the CRADLE mission: *To prepare students for effective citizenship through innovative strategies created by teachers for teachers.*

A Nationwide Network

CRADLE was founded in 1983 on the bubble-up theory of management and curriculum development. Leadership comes from the grassroots, with CRADLE constituents serving on the Board and as mentors, regional coordinators, and state team members. There are ten CRADLE regions, each is assigned five states, and through this communication and support network CRADLE's programs are conducted with genuinely nationwide representation and scope.

The Warren E. Burger National Repository

Former Chief Justice Warren Burger, as chair of the Commission on the Bicentennial of the U.S. Constitution, designated CRADLE as the site of the National Repository for Educational Materials on Citizenship and the Constitution. The Repository was recently renamed in honor of Justice Burger's leadership in the Commission's monumental effort to raise the citizenry's awareness of our constitutional heritage and that document's continuing evolution and significance. Through the Repository, teachers throughout the United States share with other teachers lessons they have developed and tested in their classrooms. The Repository also contains copies of materials developed by the various projects supported by the Bicentennial Commission.

LREnet -- An Electronic Bulletin Board for Citizenship Educators -- soon to be on eWorld!

This is a unique service in the field of law-related education. Teachers can download lessons in the National Repository directly to their own computers via LREnet. They can also communicate with other teachers in the network and participate in regular conferences on specific topics of current interest.

Special Programs In Citizenship Education

CRADLE has developed a tradition of intensive week-long institutes for teachers. Admission to each institute is competitive, and participants benefit from the development of mentoring relationships for and among experienced citizenship teachers as well as substantive training. Since 1993, one of these institutes (LEGACY) has featured partnerships between teachers and attorneys to develop and test civics curricula for gifted and talented students.

Interactive Video on the Supreme Court and the Bill of Rights

The software for a new interactive, educational video program on the Powers of the Supreme Court and the Bill of Rights has been developed by ABC News Interactive in cooperation with CRADLE.

Building An LRE Bridge, State to State

Featuring an annual LRE program directors' conference and teacher institute, this project is designed to strengthen existing statewide programs and to help them serve as models for other states through networking and mentor support.

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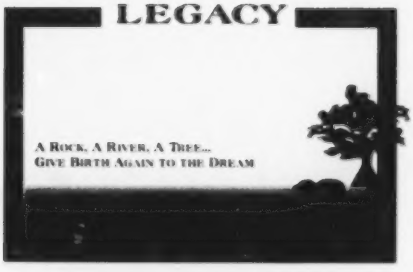

Design inspired by Ms. Maya Angelou's Inaugural Poem,
"On the Pulse of Morning"

Center for Research and Development in Law-Related Education
2714 Henning Drive
Winston-Salem NC 27106